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Rules, Regulations, Orders

TITLE 7—AGRICULTURE

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 1—ADMINISTRATIVE REGULATIONS

Effective December 1, 1941, Part 1 hereby is amended by adding the following new section:

Official Records

§ 1.1530 *Custody; duties of hearing clerk.* (a) Under the supervision of the Solicitor, the Hearing Clerk (or, in his absence, the Acting Hearing Clerk) hereby is authorized and directed:

(1) In connection with all proceedings before the Secretary in which administrative action is required to be based upon evidence, to have custody of all papers, reports, records, orders, and other documents filed in such proceedings;

(2) To have custody of such other documents as the Secretary from time to time may prescribe;

(3) To execute certified copies of any documents filed in the office of the Hearing Clerk, and to affix to each such certified copy the seal of the Hearing Clerk; and

(4) To perform such duties in addition to and not inconsistent with the foregoing as the Secretary or the Solicitor may require.

(b) The seal of the Hearing Clerk shall be circular, and shall bear on the margin around the center the words, "U. S. Department of Agriculture, Office of the Solicitor", and in the center of said seal shall appear the words, "Seal of the Hearing Clerk". (R.S. 161; 5 U.S.C. 22)

Done at Washington, D. C., this 26th day of November 1941. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

CLAUDE R. WICKARD,
Secretary of Agriculture.

[F. R. Doc. 41-8881; Filed, November 26, 1941; 11:40 a. m.]

TITLE 14—CIVIL AVIATION

CHAPTER I—CIVIL AERONAUTICS BOARD

[Amendments 60-25 to 60-43, incl., C. A. R.]

PART 60—AIR TRAFFIC RULES

ADMINISTRATOR TO DESIGNATE CONTROL ZONES AND OTHER CONTROL AREAS, ETC.

At a session of the Civil Aeronautics Board held at its office in Washington, D. C., on the 21st day of November 1941.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, as amended, particularly sections 205 and 601 of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under, said Act, the Civil Aeronautics Board amends the Civil Air Regulations as follows:

Effective January 20, 1942, Part 60 of the Civil Air Regulations is amended:

1. By amending § 60.103 to read as follows:

§ 60.103 *Control zone.* A control zone is the airspace above that area on the surface of the earth within 3 miles of the center of an airport designated by the Administrator as a control airport, and within one-half mile of a line extending from the center of such airport to the radio range station established for the purpose of directing air traffic to such airport.

NOTE: For a list of control airports, see *Air Navigation Radio Aids* published periodically by the Administrator.

2. By amending § 60.105 to read as follows:

§ 60.105 *Control zone of intersection.* A control zone of intersection is the airspace above that area on the surface of the earth within a radius of 25 miles of a radio range station designated by the Administrator as the center of such intersection.

NOTE: For a list of control zones of intersection, see *Air Navigation Radio Aids* published periodically by the Administrator.

3. By amending § 60.112 to read as follows:

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§ 60.112 *Radio fix.* A radio fix is a geographical location designated by the Administrator on a civil airway above which the position of an aircraft in flight can be accurately determined by means of radio only, (such as a cone of silence marker, Z type marker, fan type marker, or intersection of radio range 'on course' signals).

NOTE: For a list of designated radio fixes, see *Air Navigation Radio Aids* published periodically by the Administrator.

4. By amending § 60.120 to read as follows:

§ 60.120 *Airway traffic control center.* An airway traffic control center is a station operated by the Administrator for the purpose of controlling air traffic on civil airways.

NOTE: For a list of airway traffic control centers, see *Air Navigation Radio Aids* published periodically by the Administrator.

5. By amending § 60.121 to read as follows:

§ 60.121 *Airway traffic control area.* An airway traffic control area is an area within the limits of an airway designated by the Administrator and over which an airway traffic control center exercises control of air traffic.

NOTE: For a list of airway traffic control areas, see *Air Navigation Radio Aids* published periodically by the Administrator.

6. By amending § 60.21 to read as follows:

§ 60.21 *Control airports.* The Administrator, in the interest of safety, and after finding it necessary for the proper control of air traffic, may designate as a control airport any airport in the United States.

7. By amending § 60.22 to read as follows:

§ 60.22 *Control zones of intersection.* The Administrator, in the interest of safety, and after finding it necessary for the proper control of air traffic, may designate any radio range station located within the limits of a civil airway as the center of a control zone of intersection.

8. By amending § 60.23 to read as follows:

§ 60.23 *Airway traffic control area.* The Administrator, in the interest of

safety, may designate such portions of the civil airways as airway traffic control areas as may be necessary for the proper control of air traffic.

9. By eliminating § 60.24.

10. By amending § 60.53 to read as follows:

§ 60.53 *Flight plan.* Prior to take-off from any point within an airway traffic control area and prior to entering such an area, an approved flight plan as prescribed in § 60.134 is required. No flight plan shall be submitted until after the pilot has made a careful study of available current weather reports and forecasts and believes the flight can be made with safety.

NOTE: For a list of airway traffic control areas, see *Air Navigation Radio Aids* published periodically by the Administrator.

11. By changing the note to § 60.531 to read as follows:

NOTE: For a list of control zones of intersection, see *Air Navigation Radio Aids* published periodically by the Administrator.

12. By changing the word "Board" as used in § 60.571 to "Administrator" so that such section will read as follows:

§ 60.571 *Communications contacts.* The pilot shall maintain a continuous listening watch on the appropriate radio frequency and shall, by radio, contact and report as soon as possible to the appropriate communication station the time and altitude of passing each radio fix or other check point designated by the Administrator or specified in the flight plan together with unanticipated weather conditions being encountered and any other information pertinent to the aircraft movement and, further, if not within an airway traffic control area, shall, prior to entering a control zone of intersection, served by a radio voice communication station of the Administrator, establish communication with such station directly or through other communication channels, forwarding the expected time of arrival over the center of such zone, the altitude to be flown through such zone, and the course or courses proposed to be followed while within such zone.

13. By striking all of Appendix D, Appendix E, Appendix F, Appendix G, and Appendix H.

14. By changing the present title of Appendix I to read "Appendix D."

15. By amending the Table of Contents to Part 60 by striking "60.21 Control airport designation," "60.22 Control zones of intersection designation," "60.23 Radio fix designation," "60.24 Airway traffic control area designation," and by inserting in lieu thereof the following: "60.21 Control airports," "60.22 Control zones of intersection," "60.23 Airway traffic control area."

By the Civil Aeronautics Board.

[SEAL] DARWIN CHARLES BROWN,
Secretary.

[F. R. Doc. 41-8875; Filed, November 26, 1941; 10:55 a. m.]

[Amendments 60-44 to 60-46, incl., C. A. R.]

PART 60—AIR TRAFFIC RULES

ELIMINATION OF DANGER AREA RESTRICTIONS

At a session of the Civil Aeronautics Board held at its office in Washington, D. C., on the 21st day of November 1941.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a) and 601 of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under, said Act, the Civil Aeronautics Board amends the Civil Air Regulations as follows:

Effective December 1, 1941, Part 60 of the Civil Air Regulations is amended as follows:

1. By striking § 60.333.
2. By inserting a footnote to § 60.348 to read as follows:

NOTE: Areas which the Administrator believes to be hazardous to aircraft, by reason of the activities carried on in such areas, may be indicated on the aeronautical charts as "Danger Areas" and published in Notices to Airmen. Such areas will include congested flight training areas, anti-aircraft firing and training areas, field artillery firing and training areas, coast artillery firing and training areas, barrage balloon training areas, aerial gunnery firing ranges, proving grounds and any other area in which activities are conducted which would constitute a serious hazard to aircraft in flight. Pilots are warned of the extreme danger to themselves, their passengers and their aircraft should they enter such an area without first ascertaining that the activities which make the area hazardous are not to be carried on at the time of the flight.

3. By striking § 60.3501.

By the Civil Aeronautics Board.

[SEAL] DARWIN CHARLES BROWN,
Secretary.

[F. R. Doc. 41-8877; Filed, November 26, 1941;
10:55 a. m.]

[Amendment 61-19, C. A. R.]

PART 61—SCHEDULED AIR CARRIER RULES

REVISING THE RULES GOVERNING THE DUTIES OF AIRCRAFT DISPATCHERS

At a session of the Civil Aeronautics Board held at its office in Washington, D. C., on the 21st day of November 1941.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a), 601 and 604 of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under, said Act, the Civil Aeronautics Board amends the Civil Air Regulations as follows:

Effective November 21, 1941, Part 61 of the Civil Air Regulations is amended as follows:

By striking "§ 61.71094" as it appears in § 61.555 and inserting in lieu thereof "§ 61.71091 (b)".

By the Civil Aeronautics Board.

[SEAL] DARWIN CHARLES BROWN,
Secretary.

[F. R. Doc. 41-8876; Filed, November 26, 1941;
10:55 a. m.]

TITLE 26—INTERNAL REVENUE

CHAPTER I—BUREAU OF INTERNAL REVENUE

SUBCHAPTER C—MISCELLANEOUS EXCISE TAXES

[Regulations 71-1941 Edition]

PART 113—STAMP TAXES ON ISSUES AND TRANSFERS OF STOCKS AND BONDS, CON- VEYANCES OF REALTY, PASSAGE TICKETS, AND FOREIGN INSURANCE POLICIES

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Subpart A—Introductory

§ 113.0 *Scope of regulations.* These regulations apply to the stamp taxes imposed by chapters 11 and 31 of the Internal Revenue Code, as amended, with respect to—

- (a) Issues of capital stock and similar interests.
- (b) Sales and transfers of capital stock and similar interests.
- (c) Issues of bonds, debentures, certificates of indebtedness, and other corporate securities.
- (d) Sales and transfers of bonds, debentures, certificates of indebtedness, and other corporate securities.
- (e) Conveyances of realty sold.
- (f) Passage tickets.
- (g) Foreign insurance policies.

The regulations deal with the scope and application of the stamp taxes, the determination and computation of tax liability, the sale and distribution of stamps, the application of penalties, and other related matters.

The stamp tax imposed by chapter 11 upon playing cards is the subject of Regulations 66, and the stamp tax imposed by such chapter upon transfers of interests in silver bullion is the subject of Regulations 85.

The statutory references are to the Internal Revenue Code (53 Stat., Part 1), as amended,¹ unless otherwise stated.*

* §§ 113.0 to 113.162, inclusive, are issued under the authority contained in section 8791 of the Internal Revenue Code, and follow the statutory provisions to which they respectively refer.

Subpart B—General Provisions

DEFINITIONS

SEC. 3797. DEFINITIONS.

(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—

(1) *Person.* The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, company, or corporation.

(2) *Partnership and partner.* The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(3) *Corporation.* The term "corporation" includes associations, joint-stock companies, and insurance companies.

(4) *Domestic.* The term "domestic" when applied to a corporation or a partnership means created or organized in the United States or under the law of the United States or of any State or Territory.

(5) *Foreign.* The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.

(6) *Fiduciary.* The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

(9) *United States.* The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(11) *Secretary.* The term "Secretary" means the Secretary of the Treasury.

(12) *Commissioner.* The term "Commissioner" means the Commissioner of Internal Revenue.

(13) *Collector.* The term "collector" means collector of internal revenue.

(14) *Taxpayer.* The term "taxpayer" means any person subject to a tax imposed by this title.

(b) *Includes and including.* The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

§ 113.1 *Meaning of terms.* As used in these regulations, unless otherwise specified or indicated by the context—

(a) The terms defined in the applicable provisions of law have the meanings so assigned to them.

(b) The term "association" means an association taxable as a corporation for Federal income tax purposes.

(c) The term "agreement to sell" includes contracts to sell, either written or oral, and whether on the deferred or partial payment plan or otherwise, options, calls, offers, indemnities, and privileges.

(d) The term "exchange" includes each and every agency, office, room, or other place of assembly, whether under shelter or in the open, at which stock, bonds, rights, or warrants are publicly bought, sold, bid for, offered, or exchanged, between persons there assembled, on behalf of themselves or others.

(e) The term "clearing house" includes every corporation, and every association of individuals, partnerships, or corporations, wholly or partly engaged in the business of clearing, settling, or adjusting transactions in the purchase, sale, receipt, or delivery of stock, bonds, rights, or warrants, whether or not a part or department of an exchange or an independent body.

(f) The terms "stamp tax" and "stamp taxes" when used generally mean any one or all of the stamp taxes which constitute the subject of these regulations.

(g) The term "documentary stamps" means all documentary stamps issued for use in payment of the stamp taxes; the term "ordinary documentary stamps" means stamps issued for use in payment of stamp taxes with the exception of transactions for which stock transfer stamps are required; and the term "stock transfer stamps" means stamps issued for use in payment of the stamp tax on sales or transfers of stock made at exchanges.*

NOTE: For additional definitions, see §§ 113.21, 113.31, 113.51, 113.61, 113.81, and 113.101

LIABILITY FOR TAX

SEC. 1800. IMPOSITION OF TAX.

There shall be levied, collected, and paid, for and in respect of the several bonds, de-

bentures, or certificates of stock and of indebtedness, and other documents, instruments, matters, and things mentioned and described in sections 1801 to 1807, inclusive, or for or in respect of the vellum, parchment, or paper upon which such instruments, matters, or things or any of them, are written or printed, the several taxes specified in such sections.

SEC. 1809. PAYMENT OF TAX.

(a) *By whom paid.* The tax imposed by this chapter shall be paid by any person who makes, signs, issues, sells, removes, consigns, or ships any of the documents, instruments, matters, and things mentioned and described in sections 1801 to 1807, inclusive, or for whose use or benefit the same are made, signed, issued, sold, removed, consigned, or shipped.

SEC. 3480. IMPOSITION OF TAX.

There shall be levied, collected, and paid, for and in respect of the several bonds and other documents, instruments, matters, and things mentioned and described in sections 3481 and 3482, or for or in respect of the vellum, parchment, or paper upon which such instruments, matters, or things, or any of them, are written or printed, the several taxes specified in such sections.

SEC. 3483. ADMINISTRATIVE PROVISIONS.

Sections 1808 and 1809 of subchapter A of chapter 11 and subchapters B, C, and E of such chapter shall, insofar as applicable and not inconsistent with this chapter, be applicable in respect of the taxes imposed by this chapter.

§ 113.2 *Liability for tax.* The tax is payable by any of the parties to a taxable transaction. The parties to the transaction may agree among themselves as to which shall pay the tax, but such agreement does not relieve the others from their liability in the event it is not carried out.

No provisions, by-laws, or rules, of any exchange, and no custom, shall exempt any person from payment of the tax imposed.*

Subpart C—Issues of Capital Stock and Similar Interests

SEC. 1802 (AS AMENDED BY SECTION 1 OF THE REVENUE ACT OF 1939; SECTION 209 OF THE REVENUE ACT OF 1940; AND SECTION 521 (a) (4) (SEE ALSO SECTION 521 (b)) OF THE REVENUE ACT OF 1941). CAPITAL STOCK (AND SIMILAR INTERESTS).

(a) *Original issue.* On each original issue, whether on organization or reorganization, of shares or certificates of stock, or of profits, or of interest in property or accumulations, by any corporation, or by any investment trust or similar organization (or by any person on behalf of such investment trust or similar organization) holding or dealing in any of the instruments mentioned or described in this subsection or section 1801 (whether or not such investment trust or similar organization constitutes a corporation within the meaning of this title), on each \$100 of par or face value or fraction thereof of the certificates issued by such corporation or by such investment trust or similar organization (or of the shares where no certificates were issued), 11 cents: *Provided,* That where such shares or certificates are issued without par or face value, the tax shall be 11 cents per share (corporate share, or investment trust or other organization share, as the case may be), unless the actual value is in excess of \$100 per share; in which case the tax shall be 11 cents on each \$100 of actual value or fraction thereof of such certificates (or of the shares where no certificates were issued), or unless the actual value is less than \$100 per share, in which case the tax shall be 3 cents on each \$20 of actual value, or fraction thereof, of such certificates (or of the shares where no certificates were issued). The stamps representing the tax imposed by this subsection shall be attached to the stock books or corresponding records of the organization and not to the certificates issued.

¹ The Internal Revenue Code was amended by the Revenue Acts of 1939, 1940, and 1941. The Revenue Act of 1941 made permanent all of the stamp taxes covered by these regulations at rates equal to those set forth in the Revenue Act of 1940.

§ 113.20 *Scope of tax.* Section 1802 (a) imposes a tax upon each original issue of certificates (or shares when issued without certificates) of stock, or of profits, or of interest in property or accumulations by (a) any corporation, or (b) any investment trust or similar organization (whether or not constituting a corporation within the meaning of the Internal Revenue Code) holding or dealing in any of the instruments mentioned or described in section 1801 (see Subpart E) or section 1802 (a), or (c) any person (such as a depository) on behalf of such investment trust or similar organization. The tax applies to each original issue of the shares or certificates specified, irrespective of the purpose of the issue, the person to whom issued, or the time of delivery.*

§ 113.21 *Definitions.* As used herein-after in this subpart, the term "stock" includes any of the shares or certificates mentioned in section 1802 (a) unless from the context it is clear that a different meaning is intended.

The phrase "whether on organization or reorganization" as used in section 1802 (a) means whether on organization or reorganization or not, and does not limit the application of the tax to stock issued on organization or reorganization.*

§ 113.22 *Issuance of stock.* Stock is deemed to be issued when it is subscribed for and the subscription is accepted.*

§ 113.23 *Rate and computation of tax—(a) General.* The rates of tax are as follows:

Par Value Stock

11 cents on each \$100 or fraction thereof of the face value of each certificate.

No Par Value Stock

11 cents on each \$100 or fraction thereof of the actual value of each certificate, where the actual value of each share is \$100 or more.

3 cents on each \$20 or fraction thereof of the actual value of each certificate, where the actual value of each share is less than \$100.

A separate computation of tax must be made with respect to each certificate regardless of the number of certificates which may be issued in a single transaction.

(b) *Par value stock.* Where stock has a par value, the tax is measured by the total face value of the certificate and not by the amount paid for the stock. For example, the tax upon the issuance of a certificate for any number from 1 to 100 shares of stock having a par value of \$1 a share is 11 cents, since in such case the total face value of the certificate does not exceed \$100. The tax on the issuance of a certificate for any number from 11 to 20 shares of stock having a par value of \$10 a share, or for any number from 5 to 8 shares of stock having a par value of \$25 a share, is 22 cents, since in these cases the total face

value of the certificate is more than \$100 but does not exceed \$200.

(c) *No par value stock.* Where stock has no par value, the rate of tax is determined by the actual value of each share and the amount of tax, computed at such rate, is measured by the actual value of the certificate. Thus, in all cases where the actual value of each share is \$100 or more, the tax must be computed at the rate of 11 cents on each \$100 or fraction thereof of the actual value of the certificate; and in all cases where the actual value of each share is less than \$100, the tax must be computed at the rate of 3 cents on each \$20 or fraction thereof of the actual value of the certificate. For example, upon the issuance of a certificate for 10 shares having an actual value of \$101 a share, or a total actual value of \$1,010, the tax, computed at the rate of 11 cents on each \$100 or fraction thereof of the actual value of the certificate, amounts to \$1.21. Upon the issuance of a certificate for 10 shares having an actual value of \$99 a share, or a total actual value of \$990, the tax, computed at the rate of 3 cents on each \$20 or fraction thereof of the actual value of the certificate, amounts to \$1.50.

The actual value of stock not having a par value shall be determined on the basis of the market value of the stock at the time of issuance. If there is no ascertainable market value of the stock at the time of issuance, the actual value must be determined on the basis of all the facts and circumstances of the particular case.

Stock which has been given a "fixed" or "stated" value, as distinguished from stock having a par value, is taxable as stock without par value.

(d) *Shares not represented by certificates.* Where the shares are not represented by certificates, the subscription is the basis of tax computation. In the case of shares having a par value, a separate computation of tax must be made with respect to the aggregate par value of the shares covered by each subscription. In the case of shares not having a par value, a separate computation of tax must likewise be made with respect to the aggregate actual value of the shares covered by each subscription at the rate determined by the actual value of each share.*

§ 113.24 *Issues subject to tax.* The following are examples of issues subject to the tax:

(a) Certificates or shares representing beneficial interests in an association. (See § 113.1 (b).)

(b) Stock issued for property, real or personal, or for the purpose of purchasing a business.

(c) Stock issued by joint-stock land banks.

(d) Stock issued as a dividend and fractional scrip certificates.

(e) Temporary or interim certificates.

(f) Stock issued upon exercise of a warrant entitling the holder to subscribe for unissued stock. (See § 113.36 (a).)

(g) Stock issued by a consolidated corporation in exchange for stock of the consolidating corporations.

(h) Stock issued in connection with a merger by the continuing corporation to the stockholders of the merging corporation; and, under certain circumstances, stock issued to the stockholders of the continuing corporation.

(i) Stock issued outside the United States by a domestic corporation.

(j) Business property investment bonds, or other instruments issued by a corporation wherein it is certified that the holder thereof is the owner of an interest in specified real property, the legal title to which has been previously conveyed to a trustee, and whereby the issuing corporation agrees to manage the property and distribute the proceeds in a certain manner.*

§ 113.25 *Issues not subject to tax.* In addition to the various issues specifically exempt under section 1808, as to which see Subpart J, the following are examples of issues not subject to the tax:

(a) The issue of stock by Federal land banks.

(b) The issue of "rights" to subscribe for unissued stock. (But see § 113.36.)

(c) The issue of certificates of stock in exchange for outstanding certificates representing the same stock as, for instance, to reflect a change in the name of the issuing corporation or to secure several certificates for one certificate or vice versa.

(d) The issue of voting-trust certificates.

(e) The issue of definitive certificates of stock in exchange for temporary or interim certificates upon the issuance of which the tax has been paid.

(f) The issue of stock in a recapitalization or reorganization where there is no dedication of additional capital, either by transfer of earned surplus or otherwise.*

§ 113.26 *Stamps to be affixed to stock book.* The requisite revenue stamps must be affixed to the stock book or corresponding record of the organization and not to the certificates issued. For this purpose, ordinary documentary stamps shall be used. For provisions relating to cancellation of stamps, see § 113.133.*

Subpart D—Sales and Transfers of Capital Stock and Similar Interests

[SEC. 1802 (AS AMENDED BY SECTIONS 1 AND 402 OF THE REVENUE ACT OF 1939; SECTION 209 OF THE REVENUE ACT OF 1940; AND SECTION 521 (a) (5) (SEE ALSO SECTION 521 (b)) OF THE REVENUE ACT OF 1941). CAPITAL STOCK (AND SIMILAR INTERESTS).]

(b) *Sales and transfers.* On all sales, or agreements to sell, or memoranda of sales or deliveries of, or transfers of legal title to any of the shares or certificates mentioned or described in subsection (a), or to rights to subscribe for or to receive such shares or certificates, whether made upon or shown by the books of the corporation or other organization, or by any assignment in blank, or by any delivery, or by any paper or agree-

ment or memorandum or other evidence of transfer or sale (whether entitling the holder in any manner to the benefit of such share, certificate, interest, or rights, or not), on each \$100 of par or face value or fraction thereof of the certificates of such corporation or other organization (or of the shares where no certificates were issued) 5 cents and where such shares or certificates are without par or face value, the tax shall be 5 cents on the transfer or sale or agreement to sell on each share (corporate share, or investment trust or other organization share as the case may be): *Provided*, That in case the selling price, if any, is \$20 or more per share the above rate shall be 6 cents: *Provided further*, That it is not intended by this chapter to impose a tax upon an agreement evidencing a deposit of certificates as collateral security for money loaned thereon, which certificates are not actually sold, nor upon the delivery or transfer for such purpose of certificates so deposited nor upon the return of stock loaned: *Provided further*, That the tax shall not be imposed upon deliveries or transfers to a broker or his registered nominee for sale, nor upon deliveries or transfers by a broker or his registered nominee to a customer for whom and upon whose order the broker has purchased same, nor upon deliveries or transfers by a purchasing broker to his registered nominee if the shares or certificates so delivered or transferred are to be held by such nominee for the same purpose as if held by the broker, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided further*, That the tax shall not be imposed upon deliveries or transfers from a fiduciary to a nominee of such fiduciary, or from one nominee of such fiduciary to another, if such shares or certificates continue to be held by such nominee for the same purpose for which they would be held if retained by such fiduciary, or from the nominee to such fiduciary, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided further*, That in case of sale where the evidence of transfer is shown only by the books of the corporation or other organization the stamp shall be placed upon such books; and where the change of ownership is by transfer of the certificate the stamp shall be placed upon the certificate; and in cases of an agreement to sell or where the transfer is by delivery of the certificate assigned in blank there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers: *Provided further*, That as used in this section the term "registered nominee" shall mean any person registered with the collector in accordance with such rules and regulations as the Commissioner with the approval of the Secretary shall prescribe. The tax shall not be imposed upon deliveries or transfers of shares or certificates—

(1) From the owner to a custodian if under a written agreement between the parties the shares or certificates are to be held or disposed of by such custodian for, and subject at all times to the instructions of, the owner; or from such custodian to such owner;

(2) From such custodian to a registered nominee of such custodian, or from one such nominee to another such nominee, if in either case the shares or certificates continue to be held by such nominee for the same purpose for which they would be held if retained by such custodian; or from such nominee to such custodian.

No exemption shall be granted under this paragraph unless the deliveries or transfers are accompanied by a certificate setting forth such facts as the Commissioner, with the approval of the Secretary, may by regulation prescribe as necessary for the evidencing of

the right to such exemption. No delivery or transfer to a nominee shall be exempt under this paragraph unless such nominee, in accordance with regulations prescribed by the Commissioner, with the approval of the Secretary, is registered with the Commissioner.

The tax imposed by this subsection shall not be imposed upon any delivery or transfer by an executor or administrator to a legatee, heir, or distributee of shares or certificates of stock if it is shown to the satisfaction of the Commissioner that the value of such shares or certificates is not greater than the amount of the tax that would otherwise be imposed on such delivery or transfer.

§ 113.30 Scope of tax. Section 1802 (b) imposes a tax on sales, or agreements to sell, or memoranda of sales, of stock; on deliveries of stock with intent to pass title; on transfers of legal title to stock; on transfers of rights to subscribe for stock; and on transfers of rights to receive stock. The tax applies to the specified dealings or transactions in stock, whether made before, after, or without the issuance of a certificate, whether made upon or shown by the books of the corporation or other organization, or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale, and without regard to whether the holder or transferee of the stock or specified right is entitled in any manner to the benefit thereof. The tax accrues at the time of making the sale or agreement to sell or memorandum of sale, or delivery of, or transfer of the legal title to, the stock or specified right, regardless of the time or manner of delivery of the certificate or agreement or memorandum of sale.*

§ 113.31 Definitions. As used herein—after in this subpart, the term "stock" includes any of the shares or certificates mentioned in section 1802 (a) and rights to subscribe for or to receive such shares or certificates, and also includes voting trust certificates, temporary or interim certificates, and certificates representing beneficial interests in an association, unless from the context it is clear that a different meaning is intended.

As used in this subpart the term "sale" or "transfer" includes any of the transactions or dealings in stock which are subject to the tax imposed by section 1802 (b).*

§ 113.32 Rates and computation of tax—(a) Stock having a par value. Where, by sale or otherwise, par value stock of the same class issued by one corporation is transferred from a single transferor to a single transferee, the tax is computed on the basis of the aggregate par value of all the shares transferred.

Where there are two or more transferors or two or more transferees, or where in a single transaction transfer is made of the stock of two or more corporations or of two or more classes issued by a single corporation, a separate tax computation must be made with respect to each transferor and each transferee and with respect to the stock of each corporation and the stock of each class issued by a single corporation.

The above statements are illustrated by the following examples:

Example (1). A, owning 25 shares of common stock and 25 shares of preferred stock of the X Corporation, and 50 shares of the common stock of the Y Corporation, transfers all the stock by delivering the certificates to B. In this situation there are three taxable transfers, each requiring a separate computation of tax.

Example (2). A, owning 100 shares of stock in the X Corporation represented by one or more certificates, sells 50 shares each to B and C. To that end, A sends his certificates to the transfer agent with instructions to issue one or more certificates aggregating 50 shares to each purchaser. In this situation, there are two distinct transactions, namely, two sales of 50 shares of stock each, and the tax is computed upon the aggregate par value of the stock transferred to each purchaser.

Example (3). A and B, each owning 50 shares of stock in the X Corporation represented in each case by one or more certificates, make a gift of their stock to C. To that end, they send their certificates to the transfer agent with instructions to issue one or more certificates for the entire 100 shares to the donee. In this situation, there are likewise two distinct transactions, namely, two gifts of 50 shares of stock each, and a separate computation must be made with respect to each gift.

The rates of tax applicable to par value stock are as follows:

Six cents on each \$100 or fraction thereof of the aggregate face value of the certificates or shares with respect to sales, agreements to sell, and memoranda of sales, where the selling price is \$20 or more a share.

Five cents on each \$100 or fraction thereof of the aggregate face value of the certificates or shares with respect to sales, agreements to sell, and memoranda of sales, where the selling price is less than \$20 a share.

Five cents on each \$100 or fraction thereof of the aggregate face value of the certificates or shares in all other taxable transactions.

Computation of tax is illustrated by the following examples:

Example (1). A sells to B 100 shares of stock of the X Corporation having a par value of \$100 a share for \$50 per share. The amount of tax payable is computed at the rate of 6 cents on each \$100 of the face value of the certificate or certificates (\$10,000) and is \$6.

Example (2). The facts are the same as set forth in example (1) except that the stock is sold for \$10 per share. The amount of tax payable is computed at the rate of 5 cents on each \$100 of the face value of the certificate or certificates (\$10,000) and is \$5.

Example (3). A gives B 100 shares of stock of the X Corporation having a par

value of \$100 a share at a time when its actual value is \$50 a share and later gives 100 shares of the same stock to C at a time when its actual value is \$10 a share. In each instance the amount of tax is computed at the rate of 5 cents on each \$100 of the face value of the certificate or certificates (\$10,000) and is \$5 for each gift.

(b) *Stock without par value.* Where, by sale or otherwise, stock without par value is transferred, the tax is computed strictly on the basis of the number of shares involved in each transfer. The selling price of the stock is material only where the change of ownership is by sale, and then only in determining the rate of tax.

Stock which has been given a "fixed" or "stated" value, as distinguished from stock having a par value, is taxable as stock without par value.

The rates of tax applicable to stock without par value are as follows:

Six cents per share with respect to sales, agreements to sell, and memoranda of sales, where the selling price is \$20 or more a share.

Five cents per share with respect to sales, agreements to sell, and memoranda of sales, where the selling price is less than \$20 a share.

Five cents per share in all other taxable transactions.

Computation of tax is illustrated by the following examples:

Example (1). A sells to B 100 shares of stock without par value of the Z Corporation for \$25 per share. The amount of tax payable is computed at the rate of 6 cents per share on 100 shares and is \$6.

Example (2). A sells to B 100 shares of stock without par value of the Z Corporation for \$1 a share. The amount of tax payable is computed at the rate of 5 cents per share on 100 shares and is \$5.

Example (3). A gives B 100 shares of stock without par value of the Z Corporation at a time when its actual value is \$25 a share and later gives C 100 shares of the same stock at a time when its actual value is \$1 per share. In each instance the amount of tax is computed at the rate of 5 cents per share on 100 shares and is \$5 for each gift.

(c) *Rights to receive, and rights to subscribe for, stock.* In all cases, the tax on the transfer of a right to receive stock and on the transfer of a right to subscribe for stock is determined by the class of stock to which the right relates. Thus the tax is 5 cents on each share covered by the right where the stock has no par value, and 5 cents on each \$100 or fraction thereof of the aggregate par value of the shares covered by the right where the stock has a par value. In computing the tax on transfers of rights to receive or rights to subscribe for stock, the selling price or the subscription price of the stock, as the case may be, is immaterial.

§ 113.33 *Sales and transfers subject to tax.* The following transactions in stock, as defined in § 113.31 (unless otherwise exempt), are subject to the tax: All sales, agreements to sell, and transfers with or without benefit to the transferee, whether effected by means of certificates or other instruments or by entries on the books of the issuing corporation or other entity or otherwise. The following are examples of taxable transactions:

(a) Transfer by gift.

(b) Transfer as a loan, including intra-office borrowing. (But see § 113.35 (b).)

(c) Transfer by an administrator or executor to a distributee or legatee. (But see § 113.35 (g).)

(d) Transfer to or by trustees. (But see § 113.34 (e) (3).)

(e) Transfer of interim and voting trust certificates.

(f) Transfer from persons holding legal title as tenants in common, as joint tenants, or as tenants by the entirety, to the same persons separately to effect a partition, or from one person to two or more persons, whether or not including the transferor, as tenants in common, as joint tenants, or as tenants by the entirety. (But see § 113.34 (e) (2).)

(g) Transfer from a partnership to a successor partnership; also from a partnership to the individual members thereof upon dissolution.

(h) Transfer to a corporation of its own stock. (But see § 113.34 (c).)

(i) Transfer upon a merger from the name of a merging corporation of stock owned by it to the name of the continuing corporation, since such a transfer arises by action of the parties and not wholly by operation of law. Similarly, upon a consolidation, a transfer from any of the consolidating corporations to the new or consolidated corporation. (But see § 113.34 (h) and (i).)

(j) Transfer upon order of the purchaser of stock to another person; transfer of the right to receive a stock dividend already declared; issuance of stock to a person other than the subscriber or one paying the consideration for the issuance; and all other transfers of rights to receive; also all transfers of rights to subscribe for stock.

(k) Transfer by a broker to a customer of stock issued as a dividend on stock purchased for the customer by the broker and held by the broker in his own name or in the name of his nominee.

(l) Transfer of stock on the books of a domestic corporation, regardless of where the sale is made or the stock certificate delivered.

(m) Sale or transfer within the territorial jurisdiction of the United States, of stock of a foreign corporation.*

§ 113.34 *Sales and transfers not subject to tax.* In addition to the various exemptions prescribed in section 1808 which apply to stamp taxes generally (as to which see Subpart J), and to the specific exemptions provided in section 1802 (b) which apply only to the stamp tax imposed under that section (as to which

see § 113.35), the following are examples of transactions not subject to the tax:

(a) The transfer of stock pursuant to a sale, where the requisite stamps have been affixed to the memorandum of sale.

(b) The surrender of certificates in exchange for other certificates representing the same stock issued to the same person. (See also § 113.25 (c).)

(c) The surrender of stock to the issuing corporation for extinguishment. (See § 113.33 (h).)

(d) Change in the registration of stock for the sole purpose of recording a change in the name of a stockholder, such as from the maiden name to the married name of a stockholder, or a change in the name of a corporation which is a stockholder.

(e) Transfers which take effect wholly by operation of law, including changes in registration to record such transfers. Transfers of this character are those which the law itself will effect without any act of the parties. The following are examples:

(1) The transfer of stock from a decedent to the administrator or executor of the estate.

(2) The transfer of stock held in joint tenancy to the survivor or survivors upon death of a joint tenant.

(3) The transfer of stock from a deceased or resigned trustee to a substituted trustee.

(4) The transfer of stock from a bankrupt to his duly appointed trustee in bankruptcy.

(f) The transfer of stock to or by ambassadors, ministers, and duly accredited diplomatic representatives of foreign governments, the members of their families living with them; and members of their households, including attaches, secretaries, clerks, and servants, provided such members of their households are not citizens of the United States.

(g) The transfer of stock to or by an insolvent bank, where such transfers are within the provisions of section 3798.

(h) In a consolidation of corporations, the surrender of stock of any of the consolidating corporations in exchange for stock of the new or consolidated corporation. (But see § 113.24 (g).)

(i) In a merger of corporations the surrender of stock of both the merging and continuing corporations in exchange for stock of the continuing corporation. (But see § 113.24 (h).)

(j) Deliveries of stock to or by a clearing house for the sole purpose of clearing or adjusting accounts of its members.

(k) Transfer of stock pursuant to a call, since a "call" is an agreement to sell stock and taxable as such. However, the person making such nontaxable transfer shall furnish and attach to the certificate a statement in substantially the following form:

It is hereby certified that the transfer of _____ shares of the within stock to _____ has been made pursuant to a "call," and that requisite Federal docu-

mentary stamps for the transaction are affixed to such "call," which is in the possession of the undersigned.

(Signature)

§ 113.35 *Specific exemptions provided in section 1802 (b)*—(a) *Stock deposited as collateral security.* The tax does not apply to an agreement evidencing a deposit of certificates of stock as collateral security for money loaned thereon, which certificates are not actually sold, nor upon the delivery or transfer for such purpose of certificates so deposited. The exemption applies also to transfers of stock to a nominee of the lender and from such nominee back to the lender, if the stock is at all times held as collateral security for the loan; and to the return of the stock to the borrower by the lender or his nominee upon payment of the loan. The exemption does not apply, however, to deposits of stock as collateral security made otherwise than in connection with a money loan.

The person making an exempt transfer under this subsection shall furnish and attach to the certificate a statement in substantially the following form:

It is hereby certified that the transfer of the attached certificates for _____ to _____ (Number of shares and description of stock) is made in connection with _____ (Name of transferee) a deposit of stock as collateral security for money loaned thereon, or the return of stock so deposited.

(Signature)

(b) *Return of stock loaned.* The tax does not apply to the return of stock loaned; but the person returning such stock shall furnish and attach to the certificate a statement of the relevant facts. (But see § 113.33 (b).)

(c) *Transfer from customer to broker.* The mere delivery of a certificate of stock by a customer to his broker solely for the purpose of enabling such broker to sell the stock for the customer, where the broker has no ownership or interest therein, is exempt from stamp tax and does not require an exemption certificate. If, in the same circumstances, the stock is transferred to the name of the broker, or to the name of the broker's registered nominee, the transfer is also exempt from tax, provided the broker, at the time of such transfer, furnishes and attaches to the certificate a statement in substantially the following form:

It is hereby certified that _____ of the shares represented by this stock certificate are transferred by the owner to the undersigned or registered nominee thereof solely for the purpose of sale.

(Signature of broker)

For provisions relating to the registration of nominees, see § 113.153.

A transfer to the name of a selling agent other than a broker, as, for example, a bank, whether the sale be made by the agent direct or through a broker for the agent's account, is subject to tax, since the exemption applies only to deliveries and transfers to brokers. (But

see paragraph (f) of this section.) However, liability is not incurred by the mere delivery of a certificate of stock to an agent who obtains no legal title or other interest in the stock.

(d) *Transfer from broker to customer.* The mere delivery of a certificate of stock by a purchasing broker to his customer, if tax was paid upon the sale of the stock to such broker who has no ownership or interest therein, is not subject to stamp tax and does not require an exemption certificate.

If the stock is transferred to the purchasing broker or his nominee who holds the stock for the same purpose as if held by the broker, and tax on such transfer is paid, transfer may thereafter be made to the name of the purchaser without payment of tax. If the tax was paid upon transfer to the purchasing broker, transfer may be made to the name of his nominee and from such nominee to the name of the purchaser, without payment of tax. However, no exemption under this paragraph will apply unless the broker at the time of the exempt transfer attaches to the stock certificate a statement substantially in whichever of the following forms is applicable:

(1) (In the case of transfer by a broker or his registered nominee)—

It is hereby certified that the transfer of _____ of the shares represented by this stock certificate to the name indicated is made solely to complete the purchase made by the undersigned for a customer.

(Signature of broker)

(2) (In the case of transfer by a broker to his registered nominee)—

It is hereby certified that the transfer of _____ of the shares represented by this stock certificate, purchased for a customer, is made to the registered nominee of the undersigned to be held by him only for the same purpose as if held by the undersigned.

(Signature of broker)

For provisions relating to the registration of nominees, see § 113.153.

Delivery to, or transfer to the name of, the customer may not be made tax-free in any case in which the stock was transferred from the seller to the broker or his registered nominee without tax payment, since the law requires that tax shall be paid on the transfer or transfers between the actual seller and actual buyer.

A transfer from the name of a purchasing agent other than a broker, as, for example, a bank, whether the purchase be made direct or through a broker for the agent's account, is subject to tax, since the exemption applies only to deliveries and transfers from brokers. (But see paragraph (f) of this section.) However, liability is not incurred by the mere delivery of a certificate of stock by an agent having no title or interest in the stock, or by a broker for the account of such agent.

(e) *Transfers between fiduciaries and their nominees.* The tax does not apply

to deliveries or transfers of stock from a fiduciary to a nominee of such fiduciary, or from one nominee of such fiduciary to another, if the stock continues to be held by such nominee for the same purpose for which it would be held if retained by such fiduciary, or from the nominee to such fiduciary. The person making an exempt transfer under this paragraph shall, at the time of such transfer, furnish and attach to the certificate a statement setting forth the relevant facts.

(f) *Transfers to or by a custodian.* The tax does not apply to the delivery or transfer of stock from the owner thereof to a custodian, if under a written agreement between the owner and the custodian, the stock so delivered or transferred is to be held or disposed of by such custodian for, and subject at all times to the instructions of, the owner; or to the delivery or transfer of stock from such custodian to such owner.

The tax also does not apply to the delivery or transfer from such custodian to a registered nominee of such custodian, or from the owner direct to such registered nominee, or from one such nominee to another such nominee, if the stock continues to be held by the nominee for the same purpose for which it would be held if retained by such custodian; or from such nominee to such custodian or the owner. No exemption is granted unless the nominee is registered in the manner provided in § 113.153.

The tax further does not apply to the delivery or transfer of stock from a custodian of the owner to another custodian of the owner, or from the registered nominee of the first custodian to the second custodian or the registered nominee of the latter, if the transfer would have been exempt under the first or second paragraphs of this subsection if made by the owner direct to the second custodian or the registered nominee of the latter.

The exemption specified in this paragraph shall not be granted in any case unless the delivery or transfer is accompanied by a statement, signed by the custodian, in substantially the following form:

It is hereby certified that the transfer of the attached shares is exempt from the transfer tax under the provisions of section 1802 (b) of the Internal Revenue Code and that evidence in proof of the exemption is maintained by us and is available for inspection by internal revenue officers.

(Signature of Custodian)

The custodian contemplated by this subsection is a mere custodian and does not include a trustee. A mere custodian is a person to whom there are delivered or transferred shares or certificates of stock to be held or disposed of by the custodian for, and subject at all times to the instructions of, the owner and not otherwise.

(g) *Transfers of worthless securities by executors, etc.* The tax does not apply to deliveries or transfers of stock by an executor or administrator to a legatee,

held, or distributee, if it is shown to the satisfaction of the Commissioner that the value of the stock so delivered or transferred is not greater than the amount of the tax that would otherwise be imposed on such delivery or transfer.*

§ 113.36 *Warrants*—(a) *To subscribe for stock.* Transfers of warrants entitling the holder to subscribe for stock are taxable as transfers of rights to subscribe. Where the stock has a par value, the transfer of a warrant is taxable at the rate of 5 cents for each \$100 or fraction thereof of the total par value of the shares to which the holder may subscribe; and where the stock is without par value, the transfer is taxable at the rate of 5 cents for each share which may be subscribed for. The issue of a warrant entitling the holder to subscribe for stock is not subject to tax, but the issue of stock upon exercise of the warrant is subject to the tax imposed by section 1802 (a). (See § 113.24 (f).)

(b) *To purchase issued stock.* Warrants entitling the holder to purchase stock are taxable upon issuance as agreements to sell stock. The rate of tax applicable to the issue of such warrants is the rate that applies to agreements to sell the kind of stock to which the warrant relates. Thus, when the stock to be purchased under the warrant has a par value and the purchase price is less than \$20 per share, the tax is 5 cents for each \$100 or fraction thereof of the total par value of the stock which the holder is entitled to purchase, and if the purchase price is \$20 or more per share, the tax is 6 cents for each \$100 or fraction thereof of the total par value. If the stock has no par value, the tax is 5 cents for each share which the holder is entitled to purchase, unless the purchase price is \$20 or more per share, in which event the tax is 6 cents for each share instead of 5 cents.

Transfers of warrants entitling the holder to purchase issued stock are not subject to stamp tax since the statute does not impose a tax upon transfers of agreements to sell stock. If the transfer tax is paid upon the issuance of a warrant as an agreement to sell stock, the subsequent transfer of the stock pursuant to the exercise of the warrant does not incur an additional transfer tax. However, the person making such exempt transfer of stock shall furnish and attach to the certificate a statement in substantially the following form:

It is hereby certified that the transfer of the attached certificates for _____ (Numbers of shares and description of stock) is made pursuant to the exercise of a warrant which is in possession of the undersigned, and that requisite stamps due upon issuance of such warrant have been affixed thereto.

(Signature)

§ 113.37 *Memoranda of sales, etc.* Every person who makes an agreement

to sell stock, or who, by sale or otherwise, transfers title to stock by delivery of certificates assigned in blank, including a person who lends stock, shall, as a part of such transaction promptly make and deliver to the buyer, transferee, or borrower, a bill or memorandum of such agreement to sell, sale, transfer, or loan, duly signed by the seller, or transferor, or lender, or his agent, to which the requisite stamps shall be affixed and canceled. Such bill or memorandum shall show the date of the transaction, the names of the parties thereto, the name and number of shares of stock, the tax paid on the transaction, and, where a sale is involved, the sale price. (See § 113.41 (b) relative to rules applicable to clearing houses.)*

§ 113.38 *Records of sales and transfers of stock*—(a) *Brokers, dealers, etc.* All persons who are wholly or partly engaged in the business of buying, selling, or transferring stock, either at public or private sale, whether or not they are members of an exchange, including persons engaged in transactions known as "matched," or "on-order," or "pass-outs," or "give-ups," or settled directly between the seller and buyer, or cleared or adjusted through a clearing house or otherwise, or engaged in accepting and procuring the transmission of orders for purchase or sale of shares of stock, shall keep a record as to each transaction showing:

- (1) Date of transaction.
- (2) Name of customer for whom sold or loaned, or for whom bought or borrowed.
- (3) Name of party to whom sold or loaned or from whom bought or borrowed.
- (4) Name of correspondent broker, if any.
- (5) Number of shares involved.
- (6) Name and description of stock.
- (7) Par value of stock; if no par value, so indicate.
- (8) Aggregate face value of each certificate.
- (9) Selling price of stock, per share.
- (10) Amount of tax paid.

(b) *Correspondent brokers.* Persons engaged in accepting and procuring the transmission of orders for the purchase or sale of stock to be executed at a brokerage office or at an exchange, board of trade, or similar place, shall keep a record as to each transaction showing:

- (1) Date of acceptance and transmission of order.
- (2) Name of person from whom accepted.
- (3) Name and address of person to whom transmitted.
- (4) Name and description of stock.
- (5) Par value of stock; if no par value, so indicate.
- (6) Number of shares.
- (7) Whether purchase or sale.
- (8) Selling price of stock, per share.
- (9) Date of execution of order.

(c) *Floor brokers, etc.* Brokers known as strictly "floor brokers," or "two-dollar men," or "room traders," in lieu of the record prescribed in paragraph (a) of this section, whether their transactions are settled directly between seller and buyer or by "matched," "on-order," "pass-out," or "scratch sale," or "give-up," or any other kind of sale or purchase, or are cleared through a clearing house or otherwise, shall keep a record as to each transaction showing:

- (1) Date of transaction.
- (2) Name of seller.
- (3) Name of purchaser.
- (4) Name and description of stock.
- (5) Number of shares.
- (6) Par value of stock; if no par value, so indicate.
- (7) Aggregate face value of each certificate.
- (8) Selling price of stock, per share.
- (9) Whether the transaction is "matched," "on-order," "pass-out," "scratch sale," or "give-up."
- (10) Name of person to whom "given-up."

(d) *General.* Persons keeping records as prescribed in this section may incorporate therein additional information for their own use, which should be entered, however, so as not to interfere with the recording of the information required by this section. These records must be kept in permanent form, and must be available for ready inspection by internal-revenue officers. (See § 113.151.)*

§ 113.39 *Returns by brokers, dealers, etc.* All persons who are wholly or partly engaged in the business of buying, selling, or transferring stock, whether the sales, purchases, or transfers are made, cleared, settled, or adjusted through a clearing house, or otherwise, shall on or before the 15th day of each month and at any other time designated by the Commissioner render under oath a true return on Form 838, revised September 1939, for the preceding month or for any other period designated by the Commissioner. The return shall be made to the collector of internal revenue for the district in which such person or persons are located, and shall contain the following information:

- (a) The month for which the return is made.
- (b) The name and address of the person making the return.
- (c) The value of stamps on hand on the 1st day of the month.
- (d) The value of stamps purchased during the month.
- (e) The value of stamps used during the month.
- (f) The value of stamps on hand at the end of the month.

The return shall be filed for every month even though no transaction occurred in a particular month.*

§ 113.40 *Stamps to be used.* Documentary stamps with the words "Stock transfer" overprinted thereon, known as stock transfer stamps, shall be used in

connection with all sales or transfers of stock that are made at exchanges or similar places.

Ordinary documentary stamps shall be used in connection with all sales or transfers of stock that are not made at exchanges or similar places.

For provisions relating to cancellation of stamps, see § 113.133.*

§ 113.41 *Where stamps shall be affixed*—(a) *General rules.* In cases of agreements to sell stock, and transfers of title to stock, including loans, by delivery of certificates assigned in blank, the stamps shall be affixed to the memoranda of such transactions as required by § 113.37.

In all cases where the change of ownership of the stock is by transfer or delivery under special indorsement, i. e., by insertion of the name of the transferee in the endorsement or power of attorney on the back of the certificate, the stamps shall be affixed to the certificate, whether or not the change of ownership results from a sale.

In all cases where the evidence of transfer is shown only by the books of the corporation or other organization, the stamps shall be affixed to such books.

In no event shall any corporation or transfer agent transfer any shares or certificates of stock unless stamps for the transfer tax due have been properly affixed and canceled as required by these regulations.

(b) *Rules applicable to clearing houses.* If any person who negotiates sales or transfers of stock on a stock exchange shall appoint in writing the clearing house for the exchange as his agent for the purposes hereinafter specified, and on each business day shall furnish to such clearing house a written report, statement, or sheet making a full disclosure of all such transactions, both clearable and nonclearable, of the preceding business day in stocks that are listed or permitted to be dealt in by such member on such exchange, and also showing in which transactions, if any, stocks were loaned or borrowed or returned, then in that event such clearing house may affix to such report, statement, or sheet, and cancel, the stamps required for each transaction. The affixing and canceling of such stamps by the clearing house shall be held to be the act of the person making the sale, or agreement to sell, or memorandum of sale, or delivery, or transfer, as the case may be. If the person filing the report, statement, or sheet and the clearing house so elects, such person may affix and cancel the stamps before delivering such report, statement, or sheet to the clearing house; but such clearing house shall not accept the stamped report, statement, or sheet unless all stamps required to be affixed are attached thereto and properly canceled.

The reports, statements, or sheets submitted to the clearing house shall in respect of each transaction show the date thereof, the names of the parties to the

transaction, the amount and description of the stock, or other things traded in. The information with respect to more than one transaction may be entered upon one report, statement, or sheet. No settlement of differences or other dealings between members shall be permitted that will interfere with full disclosure of each transaction.

The report, statement, or sheet submitted to the clearing house does not relieve the seller from making and delivering to the buyer the bill or memorandum required by § 113.37. However, where the stamps are affixed to the report, statement, or sheet submitted to the clearing house, under either of the methods permitted by this subsection, the bill or memorandum shall, in lieu of stamps, bear an endorsement substantially in the following form:

It is hereby certified that requisite Federal stamps on the transfer of _____ shares of this certificate have been affixed to clearing-house sheet dated _____ filed with the _____ Stock Exchange Clearing House.

(Member _____ Stock Exchange)

Wherever any clearing house carries upon its sheets or records information or reports of transactions showing the transfer by one of its members of an account of a customer without change of ownership of the securities of the customer, there shall be kept by the members involved in the transaction a record showing the particulars of such transaction.*

Subpart E—Issues of Bonds, Debentures, Certificates of Indebtedness, and Other Corporate Securities

SEC. 1801 (AS AMENDED BY SECTION 1 OF THE REVENUE ACT OF 1939; SECTION 209 OF THE REVENUE ACT OF 1940; AND SECTION 521 (a) (3) (SEE ALSO SECTION 521 (b)) OF THE REVENUE ACT OF 1941). CORPORATE SECURITIES.

On all bonds, debentures, or certificates of indebtedness issued by any corporation, and all instruments, however termed, issued by any corporation with interest coupons, or in registered form known generally as corporate securities, on each \$100 of face value or fraction thereof, 11 cents: *Provided*, That every renewal of the foregoing shall be taxed as a new issue: *Provided further*, That when a bond conditioned for the repayment or payment of money is given in a penal sum greater than the debt secured, the tax shall be based upon the amount secured. The tax under this section shall not apply to any instrument under the terms of which the obligee is required to make payment therefor in installments and is not permitted to make in any year a payment of more than 20 per centum of the cash amount to which entitled upon maturity of the instrument.

§ 113.50 *Scope of tax.* Section 1801 imposes a tax upon the issue by any corporation of bonds, debentures, certificates of indebtedness, and all instruments, however termed, with interest coupons or in registered form and known generally as corporate securities. Every renewal of the above described instruments is taxable as a new issue.*

§ 113.51 *Definition of bond.* As used hereinafter in this subpart, the term "bond" includes any of the instruments

mentioned in section 1801 unless from the context it is clear that a different meaning is intended.*

§ 113.52 *Issuance.* A bond is not issued within the meaning of the law unless and until it is delivered.*

§ 113.53 *Rate and computation of tax.* The rate of tax is 11 cents on each \$100 or fraction thereof of the face value of each bond; except that, where a bond conditioned for the repayment or payment of money is given in a penal sum greater than the debt secured, the tax is based upon the amount secured. Subject to the above-stated exception, the tax is measured strictly by face value of the bond.

A separate computation of tax must be made with respect to each bond regardless of the number of bonds which may be issued in a single transaction. For example, the tax on the issuance of a bond having a face value of \$1,000 is \$1.10. The tax on the issuance of two bonds having a face value of \$50 each is 22 cents, i. e., 11 cents on each bond, whether the bonds are issued to the same person or to different persons.*

§ 113.54 *Renewals.* Every renewal of a corporate bond is subject to tax as a new issue. The time when the original bond was issued is immaterial; so also is the time when the bond is renewed, whether before or after the original date of maturity. Tax liability is not dependent upon use of any particular form of instrument to effect the renewal. The renewal may, for example, be evidenced by a notation on the original bond, by a collateral agreement, or by an extension agreement.*

§ 113.55 *Issues subject to tax.* Ordinarily, a corporate instrument styled a bond, debenture, or certificate of indebtedness is subject to the tax. However, the taxability of an instrument is not determined by the name alone but depends upon all the circumstances, such as the name, form, and terms of the instrument, etc. Hence, an instrument, however designated, having all the essential characteristics of a bond, debenture, or certificate of indebtedness is taxable as such. Similarly, an instrument issued with interest coupons, or with provision for registration, and coming within the class known generally as corporate securities will be held subject to the tax regardless of the name by which it may be called.

The following are examples of corporate instruments taxable upon issue:

(a) A bond accompanying a real estate mortgage.

(b) A bond of indebtedness delivered to a bank or trust company as security for the payment of an obligation.

(c) Bonds executed outside the United States by a foreign corporation, certified by a trustee in the United States and delivered in the United States.

(d) Interim certificates or temporary bonds issued in lieu of definitive bonds. However, no additional tax is due on the

issuance of the corresponding permanent or definitive bonds, but each of such permanent or definitive bonds must bear notation of the fact that requisite stamps were duly attached to the interim certificates or temporary bonds.

(e) Equipment trust certificates.

(f) Certificates of indebtedness issued by a receiver for a corporation.

(g) Scrip-dividend certificates.*

§ 113.56 *Issues not subject to tax.* In addition to the various issues specifically exempt under section 1808, as to which see Subpart J, the following are examples of instruments not taxable upon issue:

(a) An instrument issued by an individual.

(b) An instrument merely representing the assignment of an interest in a bond. (But see § 113.60.)

(c) Bonds issued in exchange for outstanding bonds of different denominations but of the same kind, the same total face amount, and the same maturity date.

(d) Permanent or definitive bonds issued in exchange for interim certificates or temporary bonds representing the same obligation. (But see § 113.55 (d).)

(e) An instrument under the terms of which the obligee is required to make payment therefor in installments and is not permitted in any year to make a payment of more than 20 per cent of the cash amount which the obligee is entitled to receive upon maturity of the instrument.

(f) A certificate of deposit issued by a bank, whether or not negotiable, and whether payable on demand or at some specified time; and a certificate of deposit issued by an organization operating under the Morris plan.

(g) Indemnity, fidelity, and surety bonds.

(h) A business property investment certificate wherein it is certified that the holder thereof is the owner of an interest in certain specified property, legal title to which has previously been conveyed to a trustee, and whereby the issuing corporation agrees to manage the property and distribute the proceeds. However, such instrument is subject to the issue tax imposed by section 1802 (a). (See § 113.24 (j).)

(i) A bond issued by a trust company on behalf of the estate of a decedent for which it is acting as executor or administrator, provided the bond is issued solely on the credit of the estate.

(j) The issue of a warrant granting the right to purchase bonds, irrespective of whether the bonds are unissued or have been issued. (But see § 113.66.)*

§ 113.57 *Where stamps shall be affixed.* The requisite revenue stamps must be affixed either to the bonds or to the indenture under which the bonds are issued. For this purpose ordinary documentary stamps shall be used. If the stamps are affixed to the indenture, the

bonds must bear a legend showing that the proper revenue stamps have been affixed to the indenture and duly canceled. If the indenture provides for the issue of bonds over a period of years, the requisite stamps may be affixed at the time of each issue. For provisions relative to cancellation of stamps, see § 113.133.*

Subpart F—Sales and Transfers of Bonds, Debentures, Certificates of Indebtedness, and Other Corporate Securities

SEC. 3481 (AS AMENDED BY SECTION 1 OF THE REVENUE ACT OF 1939; SECTION 209 OF THE REVENUE ACT OF 1940; AND SECTIONS 504 AND 521 (a) (23) (SEE ALSO SECTION 521 (b)) OF THE REVENUE ACT OF 1941). TRANSFER OF BONDS.

(a) *Imposition of tax.*—On all sales, or agreements to sell, or memoranda of sales or deliveries of, or transfers of legal title to any of the instruments mentioned or described in section 1801 and of a kind the issue of which is taxable thereunder, whether made by any assignment in blank or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale (whether entitling the holder in any manner to the benefit of such instrument or not), on each \$100 of face value or fraction thereof, 5 cents: *Provided*, That it is not intended by this chapter to impose a tax upon an agreement evidencing a deposit of instruments as collateral security for money loaned thereon, which instruments are not actually sold, nor upon the delivery or transfer for such purpose of instruments so deposited: *Provided further*, That the tax shall not be imposed on deliveries or transfers of bonds in connection with a reorganization (as defined in section 112 of the Revenue Act of 1932, 47 Stat. 196) if any of the gain or loss from the exchange or distribution involved in the delivery or transfer is not recognized under the income tax law applicable to the year in which the delivery or transfer is made: *Provided further*, That the tax shall not be imposed upon deliveries or transfers to a broker for sale, nor upon deliveries or transfers by a broker to a customer for whom and upon whose order he has purchased same, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided further*, That the tax shall not be imposed upon deliveries or transfers from a fiduciary to a nominee of such fiduciary, or from one nominee of such fiduciary to another, if such instruments continue to be held by such nominee for the same purpose for which they would be held if retained by such fiduciary, or from the nominee to such fiduciary, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided further*, That where the change of ownership is by transfer of the instrument the stamp shall be placed upon the instrument; and in cases of an agreement to sell or where the transfer is by delivery of the instrument assigned in blank there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers. Any person liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person, who makes any such sale, or who in pursuance of any such sale delivers any certificate or evidence of the sale of any such instrument, or bill or memorandum thereof, as herein required, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding \$1,000, or be imprisoned not more than six months, or both.

The tax shall not be imposed upon deliveries or transfers made after June 30, 1938, of instruments—

(1) From the owner to a custodian if under a written agreement between the parties the instruments are to be held or disposed of by such custodian for, and subject at all times to the instructions of, the owner; or from such custodian to such owner;

(2) From such custodian to a registered nominee of such custodian, or from one such nominee to another such nominee, if in either case the instruments continue to be held by such nominee for the same purpose for which they would be held if retained by such custodian; or from such nominee to such custodian.

No exemption shall be granted under this paragraph unless the deliveries or transfers are accompanied by a certificate setting forth such facts as the Commissioner, with the approval of the Secretary, may by regulation prescribe as necessary for the evidencing of the right to such exemption. No delivery or transfer to a nominee shall be exempt under this paragraph unless such nominee, in accordance with regulations prescribed by the Commissioner, with the approval of the Secretary, is registered with the Commissioner.

Any person who, with intent to evade the tax provided in this subdivision, falsely makes a certificate accompanying any delivery or transfer shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$1,000, or imprisoned not more than six months, or both.

§ 113.60 *Scope of tax.* Section 3481 imposes a tax upon sales of, agreements to sell, and memoranda of sales of, bonds; on deliveries of bonds with intent to pass title; and on transfers of legal title to bonds, and instruments assigning interests in bonds. The tax applies to the specified dealings or transactions in bonds, whether effected by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of sale or transfer, and without regard to whether the holder or transferee of the bond is entitled to any beneficial interest therein. The tax accrues at the time of making the sale or agreement to sell or memorandum of sale, or delivery of, or transfer of the legal title to, the bonds, regardless of the time or manner of the delivery of the bonds or agreement or memorandum of sale.*

§ 113.61 *Definitions.* As used in this subpart, the term "bond" includes any of the instruments subject upon issuance to tax under section 1801, unless from the context it is clear that a different meaning is intended.

As used hereinafter in this subpart the term "sale" or "transfer" includes any of the transactions or dealings in bonds which are subject to the tax imposed by section 3481.*

§ 113.62 *Rate and computation of tax.* Where by sale or otherwise, bonds of the same issue of a single corporation are transferred by a single transferor to a single transferee, the tax is 5 cents on each \$100 of face value or fraction thereof, of the aggregate face value of all the bonds. Where there are two or more transferors or two or more transferees, or where in a single transaction transfer is made of bonds of two or more corporations or of two or more classes issued

by a single corporation, a separate tax computation must be made with respect to each transferor and each transferee, and with respect to the bonds of each corporation and of the bonds of each class issued by a single corporation.

Example (1). M, owning 25 class A bonds of the X Corporation and 25 class B bonds of the same corporation, and 50 class A bonds of the Y Corporation, transfers all the bonds to N. In this situation there are three taxable transfers, and a separate tax computation must be made with respect to the aggregate face value of the bonds involved in each.

Example (2). M, owning 100 class A bonds of the X Corporation, sells 50 bonds to N and 50 bonds to O. In this situation, there are two sales of 50 bonds each, and the tax is measured by the aggregate face value of the bonds sold to each purchaser.

Example (3). A husband and wife, each owning \$50,000 face amount of class A bonds of the X Corporation, simultaneously give their bonds to their son. In this situation, there are two gifts, and a separate computation must be made with respect to the aggregate face value of the bonds included in each gift.

The separate tax computation required will result in a difference in the amount of tax only where the face values of the bonds transferred are not \$100 or multiples thereof.*

§ 113.63 *Sales and transfers subject to tax.* The tax on bond transfers imposed by section 3481 is similar in scope to the tax on stock transfers imposed by section 1802 (b). Accordingly, the various examples set forth in § 113.33 of sales and transfers of stock subject to the stock transfer tax apply with some exceptions to sales and transfers of bonds.

The examples stated in paragraph (j) of § 113.33 do not apply to the bond transfer tax since transfers of rights to receive and rights to subscribe for bonds are not subject to the tax imposed by section 3481. The example stated in paragraph (b) of that section relating to loans including intraoffice borrowings applies to bond transactions, and in addition thereto the return of bonds loaned is also subject to the tax imposed under section 3481.*

§ 113.64 *Sales and transfers not subject to tax.* The various examples set forth in § 113.34 of sales and transfers of stock not subject to the stock transfer tax also illustrate, in so far as applicable to bond transactions, sales and transfers of bonds not subject to the bond transfer tax. The nontaxable transactions so illustrated are in addition to those specifically exempted by section 3481 (as to which see § 113.65), and those within the general exemptions conferred by section 1803 (as to which see Subpart J).*

§ 113.65 *Specific exemptions provided in section 3481.* Section 3481 provides a number of specific exemptions from tax which, with some exceptions, correspond

to the exemptions from the stock transfer tax provided in section 1802 (b). Accordingly, the rules stated in § 113.35 with respect to the stock transfer tax exemptions also apply with respect to the corresponding bond transfer tax exemptions. The exempt transactions and the paragraphs of § 113.35 setting forth the rules applicable thereto are as follows:

- Bonds deposited as collateral security, paragraph (a).
- Transfers from customer to broker, paragraph (c).
- Transfers from broker to customer, paragraph (d).
- Transfers between fiduciaries and their nominees, paragraph (e).
- Transfers to or by a custodian, paragraph (f).

The return of bonds loaned is not exempt from the bond transfer tax. Hence, subsection (b) of § 113.35 does not apply to bond transactions.

Section 3481 includes one exemption for which no corresponding exemption is made with respect to the stock transfer tax, namely, the bond transfer tax does not apply to deliveries or transfers of bonds in connection with a reorganization if (a) the reorganization is within the definition of section 112 (i) (1) of the Revenue Act of 1932 set forth below and (b) gain or loss from the exchange or distribution involved in the delivery or transfer is not recognized under the income tax law applicable to the year in which the delivery or transfer is made. The term "reorganization" is defined in section 112 (i) (1) of the Revenue Act of 1932 as follows:

The term "reorganization" means (A) a merger or consolidation (including the acquisition by one corporation of at least a majority of the voting stock and at least a majority of the total number of shares of all other classes of stock of another corporation, or substantially all the properties of another corporation), or (B) a transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor or its stockholders or both are in control of the corporation to which the assets are transferred, or (C) a recapitalization, or (D) a mere change in identity, form, or place of organization, however effected.

Claim for this exemption will not be allowed unless, upon application, the Commissioner rules that the reorganization is within section 112 (i) (1) of the Revenue Act of 1932 and that gain or loss from the exchange or distribution involved in the delivery or transfer is not recognized under the income tax law applicable to the year in which the delivery or transfer is made.*

§ 113.66 *Warrants*—(a) *To subscribe for bonds.* Warrants entitling the holder to subscribe for unissued bonds are not subject to tax under section 3481.

(b) *To purchase issued bonds.* Warrants entitling the holder to purchase bonds are subject to tax under section 3481, upon issuance, as agreements to sell bonds. Subsequent transfers of such warrants are not subject to the transfer tax since the statute does not impose a tax upon transfers of agreements to sell bonds. If the transfer tax is paid upon

issuance of a warrant, the subsequent transfer of the bonds pursuant to the exercise of such warrant is not subject to transfer tax. However, the person transferring the bonds shall furnish and attach thereto a statement substantially as follows:

It is hereby certified that the transfer of the attached bonds, ----- to ----- (Description and face value of bonds) ----- is made pursuant to ----- (Name of transferee) the exercise of a warrant which is in possession of the undersigned, and that requisite stamps due upon issuance of such warrant have been affixed thereto.

----- (Signature)

§ 113.67 *Memoranda of sales, etc.* Every person who makes an agreement to sell bonds, or who, pursuant to sale or otherwise, transfers title to bonds by delivery, including a person who lends bonds or returns bonds which have been borrowed, shall, as a part of the transaction, promptly make and deliver to the buyer, transferee, borrower or lender, a bill or memorandum of such agreement to sell, transfer, loan, or return, duly signed by the seller, or transferor, or lender or borrower, or his agent, to which the requisite stamps shall be affixed and canceled. Such bill or memorandum shall show the date of the transaction, the names of the parties thereto, the name and number of the bonds, and the tax paid on the transaction. No more than one stamped bill or memorandum shall be required in respect of any single transaction. (See § 113.71 (b) relative to rules applicable to clearing houses).*

§ 113.68 *Records of sales and transfers of bonds.* The provisions of § 113.38 relative to records of sales and transfers of stock are also applicable to sales and transfers of bonds, except that the records of sales of bonds need not show the sales prices, since selling price is immaterial for purposes of the bond transfer tax.*

§ 113.69 *Returns by brokers, dealers, etc.* The provisions of § 113.39 relative to returns by brokers and dealers in stock are also applicable to brokers and dealers in bonds.*

§ 113.70 *Stamps to be used.* Ordinary documentary stamps shall be used in connection with all sales and transfers of bonds. For provisions relating to cancellation of stamps, see § 113.133.*

§ 113.71 *Where stamps shall be affixed*—(a) *General rules.* Where pursuant to the provisions of § 113.67, a bill or memorandum is prepared, the stamps shall be affixed thereto.

Where bonds are transferred by special endorsement, i. e., endorsement specifying the name of the transferee, the stamps shall be affixed to the bonds.

In no event shall any corporation, registrar, or transfer agent transfer any bond unless requisite documentary stamps have been affixed and canceled as required by these regulations.

(b) *Rules applicable to clearing houses.* The rules stated in paragraph

(b) of § 113.41 relating to stock transactions are also applicable to bond transactions.*

Subpart G—Conveyances of Realty Sold

SEC. 3482 (AS AMENDED BY SECTION 1 OF THE REVENUE ACT OF 1939; SECTION 209 OF THE REVENUE ACT OF 1940; AND SECTIONS 505 AND 521 (a) (24) (SEE ALSO SECTION 521 (b)) OF THE REVENUE ACT OF 1941). CONVEYANCES.

Deed, instrument, or writing (unless deposited in escrow before April 1, 1932), whereby any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his, her, or their direction, when the consideration for or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds \$100 and does not exceed \$500, 55 cents; and for each additional \$500 or fractional part thereof, 55 cents. This section shall not apply to any instrument or writing given to secure a debt.

§ 113.80 *Scope of tax.* Section 3482 imposes a tax upon deeds, instruments, or other writings (unless deposited in escrow before April 1, 1932), whereby realty sold is granted, assigned, transferred, conveyed to, or vested in, the purchaser or, at his direction, in any other person, when the consideration for, or value of, the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds \$100. (See § 113.82.)

The tax is limited to conveyances of realty sold and does not apply to other conveyances. (See § 113.81 (b).) The tax accrues at the time the deed or other instrument of conveyance is delivered, irrespective of the time when the sale is made.

Deeds deposited in escrow become subject to the tax upon delivery to the grantee, unless deposited in escrow before April 1, 1932.

A conveyance of realty subject to an equity of redemption is taxable when made, not when the time for redemption expires.

The statute expressly exempts from the tax any instrument or writing, such as a mortgage, given to secure a debt.*

§ 113.81 *Definitions.* As used hereinafter in this subpart—

(a) The term "deed" includes any instrument or writing whereby realty is assigned, transferred, conveyed to, or vested in, the purchaser or, at his direction, in any other person.

(b) The term "sold" imports transfer of title for a valuable consideration which may involve money or anything of value.*

§ 113.82 *Rate and computation of tax.* The rate of tax is 55 cents on each \$500 or fractional part thereof of the net consideration paid for, or the net value of, the realty conveyed, that is, the gross consideration or gross value less, in either case, the amount of all liens or encumbrances on the realty existing before the sale and not removed thereby.

The tax is based upon the net consideration where it is definite in amount, or may be definitely determined.

The tax is based upon net value where the amount of the consideration is indefinite, or is left open to be fixed by future contingencies.

In determining the amount of the net consideration for, or net value of, the realty conveyed, only the amount of the liens and encumbrances on the property existing before the sale and not removed thereby may be deducted. Thus, for example, taxes or assessments which are liens on the property before the sale and are not paid at the time of sale are deductible. No deduction shall be made on account of any lien or encumbrance placed upon the property in connection with the sale, or by reason of deferred payments of the purchase price whether represented by notes or otherwise.*

§ 113.83 *Conveyances subject to tax.* The following are examples where the tax applies:

(a) A conveyance of realty in exchange for other property; also the conveyance of the other property if it is realty.

(b) A conveyance of realty in consideration of life maintenance. The tax is computed on the net value of the realty conveyed.

(c) A conveyance by a defaulting mortgagor to the mortgagee in consideration of the cancellation of the mortgage debt. The tax is computed on the amount of the mortgage debt plus unpaid accrued interest.

(d) Deeds given by masters in chancery, sheriffs, clerks of court, etc., for realty sold under foreclosure or execution. The tax is computed on the amount bid for the property plus the costs if paid by the purchaser, whether the purchaser is the mortgagee or judgment creditor, or any other person.

(e) Conveyances to or by building and loan associations. However, the tax does not apply to a conveyance of realty to a building and loan association for the purpose of securing a loan thereon, nor to the reconveyance of the realty to its owner as part of the loan transaction.

(f) A conveyance of realty to a corporation in exchange for shares of its capital stock.

(g) A conveyance of realty by a corporation in liquidation or in dissolution to its shareholders subject to the debts of the corporation; however, if there are no corporate debts and the conveyance is made solely for the cancellation and retirement of the capital stock, the tax does not apply.

(h) Deeds to standing timber and to mines.

(i) In jurisdictions where common-law dower still exists, an instrument conveying the estate acquired by a widow upon assignment of dower. However, an instrument purporting to convey the inchoate right of dower of a wife, or the consummate right of dower of a widow prior to assignment of dower, is not subject to the tax. Where by statute dower has been abolished and in lieu thereof a different interest in the husband's real property conferred upon the wife, the

taxability of an instrument purporting to convey such interest prior to its assignment must be determined by the nature of the wife's interest as fixed by the statutes and decisions of the jurisdiction in which the real estate is located.

(j) A conveyance of real estate sold to or by the United States of America.*

§ 113.84 *Conveyances not subject to tax.* In addition to the various exemptions prescribed in section 1808 and the Bankruptcy Act as amended (as to which see Subpart J), the following are examples where the tax does not apply:

(a) The conveyance of realty to secure a debt also the reconveyance of such realty upon payment of the debt.

(b) Conveyances of realty without consideration and otherwise than in connection with a sale, including a deed conveying realty as a bona fide gift, although the deed may recite a consideration for the transfer, such as "natural love and affection and \$1," "desire to promote public welfare and \$1," or "\$1 and other valuable consideration"; a gift of realty by a husband to his wife accomplished through the conveyance of the property for an ostensible consideration to a "straw man" who immediately reconveys the property to the wife; and a deed to or by a trustee not pursuant to a sale.

(c) A deed to confirm title already vested in the grantee, such as a quitclaim deed to correct a flaw in title.

(d) A deed given by an executor in accordance with the terms of the will; however, if, by reason of a consideration passing between devisees, one of them takes a greater share in the realty than that to which he is entitled under the will, the deed given by the executor to convey such greater share is subject to a tax computed upon the amount of such consideration.

(e) A deed from an agent to his principal conveying real estate purchased for and with funds of the principal.

(f) An option for the purchase of real property or a contract for the sale of real property, if the contract does not vest legal title.

(g) Partition deeds, unless, for consideration, some of the parties take shares greater in value than their undivided interests, in which event a tax attaches to each deed conveying such greater share computed upon the consideration for the excess.

(h) Deeds to burial sites which do not convey title to land, but only a right to sepulture, to erect monuments, etc.

(i) Ordinary leases of real property for a definite term of years.

(j) A deed executed by a debtor conveying property to a trustee for the benefit of his creditors; however, when the trustee conveys such property to a creditor or sells it to any other person, the deed executed by him is taxable.

(k) Conveyance to a receiver of realty included in the receivership assets, and reconveyance of such realty upon termination of the receivership.

(1) A deed conveying real estate situated in a foreign country.*

§ 113.85 *Where stamps shall be affixed.* Requisite stamps must be affixed to the deed, instrument, or other writing by which realty is conveyed. Ordinary documentary stamps shall be used for this purpose. For provisions relative to cancellation of stamps see § 113.133.*

Subpart H—Passage Tickets

SEC. 1806 (AS AMENDED BY SECTION 521 (a) (7) AND (b) OF THE REVENUE ACT OF 1941).
PASSAGE TICKETS.

Passage ticket, one way or round trip, for each passenger, sold or issued in the United States for passage by any vessel to a port or place not in the United States, Canada, Mexico, Cuba, or Puerto Rico, if costing not exceeding \$30, \$1.10; costing more than \$30 and not exceeding \$60, \$3.30; costing more than \$60, \$5.50. This section shall not apply to passage tickets costing \$10 or less.

[SEC. 554. TRANSPORTATION OF PERSONS, ETC. (REVENUE ACT OF 1941.)]

(b) Chapter 30 of the Internal Revenue Code is amended by inserting after section 3468 the following new subchapter:

"SUBCHAPTER C—TRANSPORTATION OF PERSONS

"SEC. 3469. TAX ON TRANSPORTATION OF PERSONS, ETC.

"(a) *Transportation.* There shall be imposed upon the amount paid within the United States, on or after October 10, 1941, for the transportation, on or after such effective date, of persons by rail, motor vehicle, water, or air, within or without the United States, a tax equal to 5 per centum of the amount so paid. * * *

(c) *Stamp tax on passage tickets not to apply.* No tax shall be imposed under Chapter 11 of the Internal Revenue Code on a ticket sold or issued for passage the amount paid for which is taxable under section 3469 of the Internal Revenue Code. * * *

§ 113.90 *Scope of tax.* Section 3469 imposes upon the amount paid within the United States on or after October 10, 1941, for the transportation of persons by rail, motor vehicle, water, or air within or without the United States a tax equal to 5 per centum of the amount so paid. The effect of section 554 (c) of the Revenue Act of 1941 is that on and after October 10, 1941, no tax is imposed under section 1806 on a ticket sold or issued for passage the amount paid for which is taxable under section 3469. Section 1806 is therefore, on and after the date mentioned, of only limited application. It does, however, impose a tax upon passage tickets costing more than \$10 for each passenger, paid for without and issued in the United States for passage, whether one way or round trip, by any vessel to a port or place NOT in the United States, Canada, Mexico, Cuba, or Puerto Rico. For the purposes of the tax, the term "United States" includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia (see section 3797 (a) (9)); and the term "Canada" does not include Newfoundland, since Newfoundland is not a part of the Dominion of Canada.

The tax applies generally to the specified passage tickets regardless of the

person to whom issued, the purpose for which the voyage is made, the ownership of the vessel, and whether the vessel is operated privately or by any government. (But see § 113.95.)

A ticket entitling the holder to passage by any vessel to a taxable port or place is subject to the tax, regardless of whether such port or place is named on the ticket and without regard to the form of the ticket or the textual declarations thereon.

The tax accrues at the time of issue of the ticket in the United States. Thus, a ticket issued in the United States upon an exchange order purchased without the United States is taxable.

The tax does not apply to the issuance of tickets for passage by aircraft.*

§ 113.91 *Rates and computation of tax.* The rates of tax on passage tickets are as follows:

\$1.10 for each passenger where the ticket costs more than \$10 but not more than \$30 per passenger.

\$3.30 for each passenger where the ticket costs more than \$30 but not more than \$60 per passenger.

\$5.50 for each passenger where the ticket costs more than \$60 per passenger.

The tax is determined by the cost of the ticket per passenger. Accordingly, a ticket for two or more persons shall be considered as a ticket for each person, and the tax shall be determined on the basis of the portion of the cost properly allocable to each person. Thus, passage tickets costing more than \$10 but issued for two or more persons are not subject to tax if the cost to each person is \$10 or less. Where a number of tickets, each for one person, are issued or sold in bulk for a lump sum, the tax with respect to each ticket shall be determined on the basis of the cost properly allocable thereto.

While tickets costing \$10 or less are exempt from the tax regardless of the passage covered thereby, a round trip ticket for one person costing more than \$10 is taxable even though a one way ticket to or from the same place would cost \$10 or less.

Where, by reason of inclusion of any port or place in a voyage, a ticket is taxable, the tax is based upon the full cost of the ticket, without adjustment or apportionment because of inclusion in the voyage of some other port or place, a ticket to which would not be taxable.*

§ 113.92 *Passages where tickets are taxable.* The tax applies to tickets sold without and issued in the United States for passage by any vessel to a port or place NOT in the United States, Canada, Mexico, Cuba, or Puerto Rico.

The starting point of the passage, whether a foreign or domestic port, or whether or not a ticket for passage thereto would be taxable, is immaterial. Nor does tax liability depend upon termination of the voyage at a taxable port or place. If a ticket for a voyage ending at a given place would be taxable, a ticket

for a voyage which includes such place is taxable no matter where the voyage begins or ends.

For example, a ticket entitling the holder to passage, whether one way or round trip, from New York to Havana, Cuba, by way of Nassau, Bahamas, is subject to tax since the voyage includes passage to a nonexempt port (Nassau). Such ticket is taxable whether or not the passenger stops over at Nassau.*

§ 113.93 *Passages where tickets are not taxable.* Passage tickets to a port or place IN the United States, Canada, Mexico, Cuba, or Puerto Rico are not taxable.

Where a ticket is issued for a one way trip, the tax does not apply if the passage is to an exempt port or place without any intervening stop-over at a nonexempt port or place.

In the case of a round trip ticket for passage from and to a nontaxable port or place, the tax does not apply if no taxable port or place is included in the course of the passage.*

§ 113.94 *Cancellation of passage.* Liability for the tax is not incurred where a reservation for passage is canceled so that the ticket is not used for any part of the passage. However, if a taxable ticket is used for any part of the passage, the tax may not be refunded even though the passenger for any reason does not complete the passage, or visit any taxable port or place. For example, the tax upon a ticket entitling the holder to passage from New York to Miami and from that point to various taxable ports in the West Indies is not affected by cancellation of the passage to points beyond Miami.*

§ 113.95 *Passage tickets issued to certain foreign representatives.* Passage tickets are not taxable when issued to ambassadors, ministers, and duly accredited diplomatic representatives of foreign governments, the members of their families living with them; and members of their households, including attaches, secretaries, clerks, and servants, provided such members of their households are not citizens of the United States.*

§ 113.96 *Affixing stamps.* Ordinary documentary stamps shall be used in payment of the tax upon passage tickets and may be affixed to the passenger manifest, provided such manifest sets forth the name of the vessel, the date of sailing, the number, value, and class of, and the tax due on, each passage ticket, and the total amount of the tax at the foot of the manifest.

Payment of the tax may be evidenced by the affixing of one or more stamps of large denomination in an amount equal to the total tax shown at the foot of the manifest. Where the stamps are affixed to the passenger manifest, a notation shall be made on each passage ticket to the effect that the necessary documentary stamps have been so affixed and properly canceled. The stamped manifests shall be retained in the main office of the company at the port of sailing for

not less than four years, and shall be accessible for inspection by authorized internal revenue officers.

For provisions relating to cancellation of stamps see § 113.133.*

Subpart 1—Foreign Insurance Policies

SEC. 1804 (AS AMENDED BY SECTION 521 (a) (6) AND (b) OF THE REVENUE ACT OF 1941).
INSURANCE POLICIES.

On each policy of insurance, or certificate, binder, covering note, memorandum, cablegram, letter, or other instrument by whatever name called whereby insurance is made or renewed upon property within the United States (including rents and profits) against peril by sea or on inland waters or in transit on land (including transshipments and storage at termini or way points) or by fire, lightning, tornado, windstorm, bombardment, invasion, insurrection or riot, issued to or for or in the name of a domestic corporation or partnership or an individual resident of the United States by any foreign corporation or partnership or any individual not a resident of the United States, when such policy or other instrument is not signed or countersigned by an officer or agent of the insurer in a State, Territory, or District of the United States within which such insurer is authorized to do business, a tax of 4 cents on each dollar, or fractional part thereof of the premium charged: *Provided*, That policies of reinsurance shall be exempt from the tax imposed by this section.

[SEC. 1821. NONPAYMENT OR EVASION OF TAX.]

(b) In particular.

(3) *Insurance policies.* Any person to or for whom or in whose name any insurance policy or other instrument referred to in section 1804 is issued, or any solicitor or broker acting for or on behalf of such person in the procurement of any such policy or other instrument, shall affix the proper stamps to such policy or other instrument.

§ 113.100 *Scope of tax.* Section 1804 imposes a tax upon each policy of insurance, or certificate, binder, covering note, memorandum, cablegram, letter, or other instrument by whatever name called, issued—

(a) by any foreign corporation or partnership or any individual not a resident of the United States, and not signed or countersigned by an officer or agent of the insurer in a State, Territory, or District of the United States within which such insurer is authorized to do business;

(b) to or for or in the name of a domestic corporation or partnership or an individual resident of the United States; whereby insurance is made or renewed—

(c) upon property within the United States, including rents and profits;

(d) against peril by sea, or on inland waters, or in transit on land (including transshipments and storage at termini or way points), or by fire, lightning, tornado, windstorm, bombardment, invasion, insurrection, or riot.

An insurance policy issued for a domestic corporation or partnership, or an individual resident of the United States, is subject to the tax without regard to the identity, or the nationality or residence, of the person to or in whose name the policy is issued. A policy issued to or in the name of a domestic corporation or partnership, or individual resident of the United States, is subject to the tax

without regard to the identity or the nationality or residence of the person for whom the policy is issued.

The application of the tax is limited to insurance policies upon property within the United States, including rents and profits. However, there are no limitations with respect to the form of the property; the tax applies to property of all kinds whether real or personal, and whether tangible or intangible. (As to movable property, see § 113.102.)

The application of the tax is further limited to insurance against the particular risks specified in the statute. But it is not necessary that the policy cover all such risks; the policy is subject to the tax if it provides insurance against any one of the specified risks. A policy otherwise taxable is not exempt because it may also provide insurance against a risk not named in the statute.

Policies of reinsurance are expressly exempted by the statute from the tax.*

§ 113.101 *Definitions.* When used in this subpart—

(a) The terms "policy of insurance" and "other instrument" include a certificate, binder, covering note, memorandum, cablegram, letter, or any instrument by whatever name called, whereby insurance is made or renewed.

(b) The term "insurance" includes every manner of providing indemnity with respect to property within the United States (including rents and profits) against risks from peril by sea, or on inland waters, or in transit on land (including transshipments and storage at termini or way points), or by fire, lightning, tornado, windstorm, bombardment, invasion, insurrection, or riot.

(c) The term "premium" means the agreed price for assuming and carrying the risk, including any additional assessment or charge which may be assessed or charged under the contract, whether payable in one sum or in installments.*

§ 113.102 *Movable property.* Movable property, such as ships, vessels, barges, rolling stock of railroads, and other similar movable property, shall be held to be property within the United States if the principal place of business of the corporation or partnership owning and controlling the same is located within the United States, or, in the case of an individual, if he resides in the United States, unless such property is permanently located without the United States for purposes of ordinary use. The nation of registry of a vessel is immaterial.*

§ 113.103 *Exports and imports.*—(a) *Exports.* A policy of insurance upon property exported from the United States is not subject to the tax if the insurance does not become effective prior to the time that the property is in the actual course of exportation.

Where a policy is issued to cover both export and nonexport property, the tax will be computed upon the full amount of the premium charged, unless the policy clearly indicates the property for export

and the premium charged for the insurance thereon.

(b) *Imports.* A policy of insurance covering property shipped from a foreign country to a port in the United States, which terminates upon unloading, is not taxable where the coverage within the United States constitutes only a trifling portion of the total coverage. If the coverage within the United States constitutes more than a trifling portion of the total coverage, the policy is taxable and the tax is measured by the total premium charged.*

§ 113.104 *Rate and computation of tax.* The rate of tax is 4 cents on each dollar, or fractional part thereof, of the premium charged. For example, the tax is 44 cents upon a premium charge of \$10.10.

The tax is measured strictly by the amount of the premium charged. (But see § 113.103.) The time and method of payment of the premium are immaterial; the tax liability attaches, if the insurance contract becomes effective, even though the premium is never paid.*

§ 113.105 *Affixing stamps.* Ordinary documentary stamps shall be used in payment of the tax. Requisite stamps must be affixed to the first instrument whereby the insurance is made or renewed, i. e., by which the relationship of insurer and insured is created or evidenced, whether it be a letter of acceptance, cablegram, or other instrument by whatever name called. Any policy of insurance or other instrument which is subsequent to or which confirms a contract of insurance that is created or evidenced by any prior instrument by which insurance was originally made or renewed, shall bear a notation designating such prior instrument (hereinafter referred to as the original instrument) and showing that the requisite stamps have been affixed thereto and canceled.

In the case of so-called "open policies" or "open cargo covers," where the amount of the premium is not definitely determined at the time of issuance, the stamps may be affixed to the receipts for monthly or other payments if proper notation be made upon such receipts identifying the original instruments to which they apply.

In the case of a binder or other instrument whereby insurance is made or renewed, issued without agreement as to the premium to be charged, stamps must be affixed when the amount of the premium is determined.

Any person to or for whom or in whose name any policy of insurance or other instrument is issued, or any solicitor or broker acting for or on behalf of such person in the procurement of any such policy or other instrument, must affix the requisite stamps to such policy or other instrument.

For provisions relative to cancellation of stamps see § 113.133.*

§ 113.106 *Subsequent instruments that must be stamped.* In case a subsequent instrument provides for the payment of a premium greater than that provided for in the original instrument,

the subsequent instrument must have affixed thereto stamps equal to the tax imposed upon the additional premium charged and must bear a notation of the stamps affixed to the original instrument. (See § 113.105.)*

§ 113.107 *Insured to retain policy for at least four years.* The person having control or possession of a policy of insurance or other instrument to which documentary stamps must be affixed shall retain such instrument for at least four years from the date of issuance thereof to enable internal revenue officers to ascertain whether requisite stamps have been affixed and canceled.*

§ 113.108 *Instruments without stamps or notation of stamping.* Failure to affix and cancel stamps or to make the notation required by §§ 113.105 and 113.106 will be held to raise a presumption of intent to evade payment of tax.*

§ 113.109 *Returns.* No monthly return or monthly statement showing a list of policies or other instruments subject to the tax imposed by section 1804 is required from any person to or for whom or in whose name such policy or other instrument is issued, or from the solicitor or broker acting directly or indirectly for or on behalf of such person, but each person, solicitor, or broker accepting, placing, or soliciting such policy or other instrument shall keep a record of each policy or other instrument subject to the tax imposed by section 1804 by which he has directly or indirectly made, placed, solicited, or assisted in the making or renewal of such insurance, or for which he has paid or received compensation, and shall be prepared to furnish full information to the Commissioner at any time upon demand.*

§ 113.110 *Refunds.* Where an instrument on which tax has been paid is canceled or modified before the insurance becomes effective so that no tax is due or a lesser amount of tax is due than was paid, the value of the stamps used in excess of the amount of tax properly due will be redeemed upon a proper claim timely presented to the collector. As to refunds and redemptions generally, see §§ 113.158 to 113.161.*

Subpart J—Exemptions

SEC. 1808. EXEMPTIONS.

There shall not be taxed under this chapter—

(a) *Government and state obligations.* Any bond, note, or other instrument, issued by the United States, or by any foreign Government, or by any State, Territory, or the District of Columbia, or local subdivision thereof, or municipal or other corporation exercising the taxing power; or

(b) *Bonds of indemnity.* Any bond of indemnity required to be filed by any person to secure payment of any pension, allowance, allotment, relief, or insurance by the United States, or to secure a duplicate for, or the payment of, any bond, note, certificate of indebtedness, war-savings certificate, warrant or check, issued by the United States; or

(c) *Stocks and bonds of domestic building and loan associations and mutual ditch or irrigation companies.* Stocks and bonds issued by domestic building and loan associations substantially all the business of which

is confined to making loans to members, or by mutual ditch or irrigation companies; or

(d) *Stocks and bonds of farmers', fruit growers', or cooperative associations.* Stocks and bonds and other certificates of indebtedness issued by any farmers' or fruit growers' or like associations organized and operated on a cooperative basis for the purposes, and subject to the conditions, prescribed in paragraph (12) of section 101.

(e) *Reorganization of railroads engaged in interstate commerce.* The provisions of sections 1801, 1802, and 1821 (b) of this chapter and sections 3481 and 3482 of chapter 31 shall not apply to the issuance, transfers, or exchanges of securities or filing of conveyances to make effective any plan of reorganization confirmed under the provisions of section 77 of the National Bankruptcy Act, as amended by section 1 of the Act of March 3, 1933, c. 204, 47 Stat. 1474 (U.S.C., Title 11, § 205).

(f) *Corporate reorganizations.* The provisions of sections 1801, 1802, and 1821 (b) of this chapter and the provisions of sections 3481 and 3482 of chapter 31 shall not apply to the issuance, transfers, or exchange of securities or making or delivery of conveyances to make effective any plan of reorganization confirmed under section 77B of the National Bankruptcy Act, as amended by the Act of June 7, 1934, c. 424, 48 Stat. 919 (U.S.C., Title 11, § 207).

BANKRUPTCY ACT

RAILROAD ADJUSTMENTS

SECTION 735, ACT OF JULY 1, 1898, 30 STAT. 544, ADDED BY ACT OF JULY 28, 1939, 53 STAT. 1140 (11 U.S.C., Sup., 1235).

The provisions of sections 1801, 1802, 3481, and 3482 of the Internal Revenue Code and any amendments thereto, unless specifically providing to the contrary shall not apply to the issuance, transfer, or exchange of securities or the making or delivery of conveyances to make effective any plan of adjustment confirmed under the provisions of this chapter.

CORPORATE REORGANIZATIONS

SECTION 267, ACT OF JULY 1, 1898, 30 STAT. 544, ADDED BY ACT OF JUNE 22, 1938, 52 STAT. 903 (11 U.S.C., Sup., 667).

The issuance, transfer, or exchange of securities, or the making or delivery of instruments of transfer under any plan confirmed under this chapter, shall be exempt from any stamp taxes now or hereafter imposed under the laws of the United States or of any State.

§ 113.120 *Government and state obligations.* Section 1808 (a) exempts from stamp tax any bond, note, or other instrument having the characteristics of a bond or note, issued by the United States, or by any foreign government, or by any State, Territory, or the District of Columbia, or local subdivision thereof, or municipal or other corporation exercising the taxing power. The exemption applies to the stamp tax on issues of bonds, etc., imposed by section 1801, and the stamp tax on sales and transfers of bonds, etc., imposed by section 3481.*

§ 113.121 *Stocks and bonds of domestic building and loan associations and mutual ditch or irrigation companies.* Section 1808 (c) exempts from the taxes imposed by sections 1801, 1802, and 3481, stocks and bonds issued (a) by domestic building and loan associations substantially all the business of which is confined to making loans to members, and (b) by mutual ditch or irrigation companies.*

§ 113.122 *Stocks, bonds, and certificates of indebtedness of farmers', fruit growers', or cooperative associations.* Section 1808 (d) exempts from the taxes

imposed by sections 1801, 1802, and 3481, stocks, bonds, and other certificates of indebtedness issued by any farmers' or fruit growers' or like associations organized and operated on a cooperative basis for the purposes, and subject to the conditions, prescribed in section 101 (12).*

§ 113.123 *Reorganization of railroads engaged in interstate commerce; railroad adjustments.* Section 1808 (e) exempts from the taxes imposed by sections 1801, 1802, 3481, and 3482, the issuance, transfers, or exchanges of securities or filing of conveyances to make effective any plan of reorganization confirmed under the provisions of section 77 of the Bankruptcy Act (Act of July 1, 1898, 30 Stat., 544), as amended by section 1 of the Act of March 3, 1933, 47 Stat., 1474 (11 U.S.C., 205). Section 735 of the Bankruptcy Act, as added by the Act of July 28, 1939, 53 Stat., 1140 (11 U.S.C., Sup., 1235), likewise exempts from such taxes the issuance, transfer, or exchange of securities or the making or delivery of conveyances to make effective any plan of adjustment confirmed under the provisions of Chapter XV of the Bankruptcy Act as added by the Act of July 28, 1939.*

§ 113.124 *Corporate reorganizations.* Section 1808 (f), and section 267 of the Bankruptcy Act as added by the Act of June 22, 1938, 52 Stat., 903 (11 U.S.C., Sup., 667), exempt from stamp tax the issuance, transfer, or exchange of securities, and the delivery of deeds of conveyance, (a) to make effective any plan of reorganization confirmed under section 77B of the Bankruptcy Act, as amended by the Act of June 7, 1934, 48 Stat., 919 (11 U.S.C., 207), or (b) under any plan confirmed under Chapter X of the Bankruptcy Act as amended.*

Subpart K—Stamps

SEC. 1809. PAYMENT OF TAX.

(b) *Method of payment.*

(1) *Stamps.* The Commissioner shall cause to be prepared and distributed for the payment of the taxes prescribed in this chapter suitable stamps denoting the tax on the documents, articles, or things to which the same may be affixed.

SEC. 1815. AFFIXING.

The Commissioner shall prescribe such method for the affixing of the stamps prescribed in section 1809 (b) (1) in substitution for, or in addition to the method provided in this chapter, as he may deem expedient.

SEC. 1816. CANCELLATION.

(a) *General rule.* Whenever an adhesive stamp is used for denoting any tax imposed by this chapter, except as hereinafter provided, the person using or affixing the same shall write or stamp or cause to be written or stamped thereupon the initials of his or its name and the date upon which the same is attached or used, so that the same may not again be used; *Provided*, That the Commissioner may prescribe such other method for the cancellation of such stamps as he may deem expedient.

SEC. 3300. ESTABLISHMENT AND ALTERATION.

(a) *Authorization.* The Commissioner, with the approval of the Secretary, may establish and, from time to time, alter or change the form, style, character, material, and device of any stamp, mark, or label used under any provision of the laws relating to internal revenue.

SEC. 3301. ATTACHMENT AND CANCELLATION.

(a) *General authority to prescribe methods and instruments.* The stamps referred to in the preceding section shall be attached, protected, removed, canceled, obliterated, and destroyed, in such manner and by such instruments or other means as the Commissioner, with the approval of the Secretary, may prescribe; and he is authorized and empowered to make, with the approval of the Secretary, all needful regulations relating thereto.

SEC. 3302. EXPENSE.

The stamps or device or instrument or means of removal or obliteration referred to in sections 3300 and 3301 shall entail no additional expense upon the persons required to affix or use the same.

SEC. 3303. CANCELLATION OF STAMPS BY PERFORATION.

In lieu of or in addition to other requirements of law in that respect, all stamps used for denoting internal revenue taxes may, in the discretion of the Commissioner, be canceled by perforations to be made in such manner and form as the Commissioner may, by regulation, prescribe.

§ 113.130 *Denominations of documentary stamps.* Documentary stamps are issued in the following denominations:

Ordinary documentary stamps: 1 cent, 2 cents, 3 cents, 4 cents, 5 cents, 8 cents, 10 cents, 20 cents, 25 cents, 40 cents, 50 cents, 80 cents, \$1, \$2, \$3, \$4, \$5, \$10, \$20, \$30, \$50, \$60, \$100, \$500, \$1,000.

Stock transfer stamps: 1 cent, 2 cents, 4 cents, 5 cents, 10 cents, 20 cents, 25 cents, 40 cents, 50 cents, 80 cents, \$1, \$2, \$3, \$4, \$5, \$10, \$20, \$30, \$50, \$60, \$100, \$500, \$1,000.*

§ 113.131 *Documentary stamps only to be used.* Documentary stamps only shall be used in payment of documentary stamp taxes.

Documentary stamps issued under the Acts of October 22, 1914, October 3, 1917, February 24, 1919, June 2, 1924, and February 26, 1926, may be used in payment of documentary stamp taxes imposed by the Internal Revenue Code.

Ordinary postage stamps cannot be used in payment of documentary stamp taxes.*

§ 113.132 *Use of stamps.* Wherever feasible a stamp tax shall be paid by the use of a single stamp. If a stamp of a denomination equal to the tax is not readily available, the smallest practicable number of stamps shall be used.

A stamp affixed to an instrument and canceled cannot lawfully be removed therefrom and affixed to another instrument requiring a stamp. (See § 113.134.)*

§ 113.133 *Cancellation of stamps.* A person using or affixing a stamp shall cancel it and so deface it as to render it unfit for reuse, by marking it with his initials and the day, month, and year when the affixing occurs. Such marking shall be made by writing or stamping in ink or by perforating with a machine or punch. In addition, unless a stamp of the value of 50 cents or more is canceled by perforation, three parallel incisions shall be made lengthwise through the stamp with some sharp instrument after the stamp has been affixed. How-

ever, the stamp shall not be so defaced as to prevent ready determination of its denomination and genuineness.

For requirements as to affixing stamps in payment of the tax on—

Issues of capital stock, see § 113.26.
Sales and transfers of capital stock, see § 113.41.
Issues of bonds, etc., see § 113.57.
Sales and transfers of bonds, etc., see § 113.71.
Deeds of conveyance, see § 113.85.
Passage tickets, see § 113.96.
Foreign insurance policies, see §§ 113.105 and 113.106.*

§ 113.134 *Penalties.* For penalties that apply to the failure to cancel stamps as required by the law and regulations, and to frauds relating generally to stamps, see sections 1822 and 1823, appearing in Subpart L under the subheading "Penalties."*

DISTRIBUTION AND SALE OF STAMPS

SEC. 1817. SUPPLY.

(a) *Post office.* The Commissioner shall furnish to the Postmaster General without prepayment a suitable quantity of adhesive stamps to be distributed to and kept on sale by the various postmasters in the United States in all post offices of the first and second classes and such post offices of the third and fourth classes as are located in county seats. The Postmaster General may require each such postmaster to give additional or increased bond as postmaster for the value of the stamps so furnished, and each such postmaster shall deposit the receipts from the sale of such stamps to the credit of and render accounts to the Postmaster General at such times and in such form as he may by regulations prescribe. The Postmaster General shall at least once monthly transfer all collections from this source to the Treasury as internal-revenue collections.

(b) *Designated depository of the United States.* Each collector shall furnish, without prepayment, to any designated depository of the United States, located in the district of such collector, a suitable quantity of adhesive stamps to be kept on sale by such designated depository.

(c) *State agents.* Each collector shall furnish, without prepayment, to any person who is (1) located in the district of such collector, (2) duly appointed and acting as agent of any State for the sale of stock transfer stamps of such State, and (3) designated by the Commissioner for the purpose, a suitable quantity of such adhesive stamps as are required by section 1802, to be kept on sale by such person.

SEC. 1818. METHODS OF SAFEGUARDING.

(a) *Bond.* In cases coming within the provisions of subsections (b) and (c) of section 1817 the collector may require a bond, with sufficient sureties, in a sum to be fixed by the Commissioner, conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of, and for the payment monthly of all quantities or amounts sold or not remaining on hand.

(b) *Regulations.* The Secretary may from time to time make such regulations as he may find necessary to insure the same-keeping or prevent the illegal use of all the adhesive stamps referred to in section 1817 (b) and (c).

§ 113.140 *Where stamps may be purchased.* Documentary stamps may be purchased from—

(a) Collectors, and duly authorized deputy collectors;

(b) Postmasters in all post offices of the first and second classes and such post offices of the third and fourth classes as are located in county seats; and

(c) Depositories of the United States designated under subsection (b) of section 1817.*

§ 113.141 *Requisitions.* Requisitions for the purchase of ordinary documentary stamps shall be made on Form 427, revised 1933; and for the purchase of stock transfer stamps on Form 743, revised 1933. Copies of these forms may be procured from any collector.*

§ 113.142 *Records and statements of depositories.* A designated United States depository shall make sales only upon receipt of requisitions prescribed by § 113.141. The depository shall keep a record of sales, and on or before the 15th day of each month shall deliver to the collector of internal revenue the requisitions for all stamps purchased during the preceding calendar month, and a statement setting forth the denominations, number of each denomination, and total face value of all stamps (a) on hand at the beginning of the month, (b) sold during the month, and (c) on hand at the end of the month; and pay over to the collector of internal revenue all money received from sales of stamps during the month, taking his receipt therefor.

Any such depository who uniformly purchases such stamps for cash shall not be required to keep such record or make such statement but shall resell the stamps purchased only upon receipt of requisitions prescribed by § 113.141 and shall file on or before the 15th day of each month the requisitions for the preceding month.*

§ 113.143 *Requisitions to be retained by the collector.* The collector of internal revenue shall keep the requisitions for stamps sold by him and those sold by designated United States depositories separate and apart from requisitions for stamps of other kinds and shall retain them for four years.*

§ 113.144 *Restrictions on the sale or purchase of stock transfer stamps.* No person other than one authorized by law for such purpose shall sell or expose for sale, give away, traffic in, trade, barter, lend, borrow, or exchange any stock transfer stamps.

No person shall buy, receive, or have in his possession, or under his control, any stock transfer stamps, unless such stamps have been purchased on proper requisition from an official authorized by law to sell such stamps.*

Subpart L—Miscellaneous Provisions
Administrative Provisions

SEC. 1835. RECORDS, STATEMENTS, AND RETURNS.

Every person liable to any tax imposed by this chapter or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

SEC. 1837. OTHER LAWS APPLICABLE.

All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, shall be extended to and made a part of this chapter.

SEC. 3603. NOTICE REQUIRING RECORDS, STATEMENTS, AND SPECIAL RETURNS.

Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records as the Commissioner deems sufficient to show whether or not such person is liable to tax.

SEC. 3614. EXAMINATION OF BOOKS AND WITNESSES.

(a) *To determine liability of the taxpayer.* The Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, is authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the person rendering the return or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons.

SEC. 3631. RESTRICTIONS ON EXAMINATION OF TAXPAYERS.

No taxpayer shall be subjected to unnecessary examinations or investigations, and only one inspection of a taxpayer's books of account shall be made for each taxable year unless the taxpayer requests otherwise or unless the Commissioner, after investigation, notifies the taxpayer in writing that an additional inspection is necessary.

SEC. 3632. AUTHORITY TO ADMINISTER OATHS, TAKE TESTIMONY, AND CERTIFY.

(a) *Internal revenue personnel.*

(1) *Persons in charge of administration of internal revenue laws generally.* Every collector, deputy collector, internal revenue agent, and internal revenue officer assigned to duty under an internal revenue agent, is authorized to administer oaths and to take evidence touching any part of the administration of the internal revenue laws with which he is charged, or where such oaths and evidence are authorized by law or regulation authorized by law to be taken.

(b) *Others.* Any oath or affirmation required or authorized by any internal revenue law or by any regulations made under authority thereof may be administered by any person authorized to administer oaths for general purposes by the law of the United States, or of any State, Territory, or possession of the United States, or of the District of Columbia, wherein such oath or affirmation is administered, or by any consular officer of the United States. This subsection shall not be construed as an exclusive enumeration of the persons who may administer such oaths or affirmations.

SEC. 3790. PROHIBITION OF ADMINISTRATIVE REVIEW OF COMMISSIONER'S DECISIONS.

In the absence of fraud or mistake in mathematical calculation, the findings of facts in and the decision of the Commissioner upon (or in case the Secretary is authorized to approve the same, then after such approval) the merits of any claim presented under or authorized by the internal revenue laws shall not, except as provided in chapter 5, be subject to review by any other administrative or accounting officer, employee, or agent of the United States.

§ 113.150 *Records and returns.* The following records shall be maintained and preserved for at least four years from the time of the related transaction:

All instruments, memoranda, books, or other documents to which documentary stamps have been affixed and canceled in payment of stamp taxes;

All certificates of exemption executed in lieu of the payment of stamp taxes; and

All other records required by these regulations.

The foregoing records shall be retained at the place of business, or at some other location convenient for inspection by authorized internal revenue officers.

For particular requirements relative to the records to be maintained or returns to be filed in case of the stamp tax on—

Sales and transfers of capital stock, etc., see §§ 113.38, 113.39, and 113.41 (b); Sales and transfers of bonds, etc., see §§ 113.68, 113.69, and 113.71 (b);

Passage tickets, see § 113.96;

Foreign insurance policies, see § 113.109.*

§ 113.151 *Inspection of records.* Any officer designated by the Commissioner shall have authority to examine the books, papers, and records kept pursuant to these regulations, and may require the production of any books, records, papers, or statements of account necessary to determine any liability for stamp tax or the observance of the provisions of these regulations.*

Registration Requirements

§ 113.152 *Registration of brokers, exchanges, etc.* Every person engaged, in whole or in part, in any of the following businesses or activities shall file a statement for registration with the collector of internal revenue for each district in which such business or activity is conducted:

(a) Negotiating, making, or recording sales or transfers of stock, bonds, rights, or warrants;

(b) Conducting or transacting a stock or bond brokerage business;

(c) Accepting or procuring the transmission of orders for the purchase or sale or transfer of stock, bonds, rights, or warrants to be executed at a stock or bond brokerage office or an exchange or similar place;

(d) Transferring stock, bonds, rights, or warrants, other than their own;

(e) Conducting an exchange or clearing house, or clearing association, for the clearing adjusting, and settling of transaction made on exchanges or similar places. In case an exchange has a department connected therewith engaged in clearing, adjusting, and settling transactions made thereon, a statement shall be made setting forth the names and addresses of the superintendent and secretary of the clearing house department or committee.

The statement shall be under oath on Form 741 procurable from collectors of internal revenue, and shall set forth specifically the character of the business, the name under which it is operated, and the

exact location. A concern having branches or agencies shall file a statement in the district in which its principal office is located, showing the address of each branch office or agency and the name of the manager or agent thereof. A separate statement shall also be filed in each of the other districts in which branches or agencies are maintained. The data shown in a statement covering a branch or agency shall relate to such branch or agency rather than to the principal office. The statement shall show the name and residence address of each member or representative holding membership in an exchange and the name of the exchange. If a license has been procured under the laws of any State or any provision of Federal law, the date of the license and the place of issuance shall be shown.

In the case of a partnership the statement shall be verified under oath by one of the partners and shall show the full name and residence address of each member engaged in the business.

In the case of a corporation or association, including an exchange or clearing house, the statement shall be verified under oath by the chief officer or secretary and shall show the names and residence addresses of such officers. In the case of a corporation the statement shall show the date and place of incorporation. In the case of an exchange or clearing house, the name and residence address of the superintendent shall be shown. A list of the members and their residence addresses and a copy of the constitution, charter, or agreement of association and of the by-laws, rules, and regulations shall be filed with the statement. A copy of each amendment shall be filed as adopted.

If after a statement has been filed there is an addition to the membership, an additional statement shall be filed showing the name and residence address of the additional member.

In case a person registered as herein indicated shall suspend or close his business, or move it to another district, he shall notify the collector to that effect, showing the date of suspension, closing, or removal, and shall return the certificate of registration to the collector. (See § 113.154).*

§ 113.153 *Registration of nominees.* Any person conducting a stock brokerage business, who has registered with the collector as provided in § 113.152, may appoint some person to act as nominee in holding stock on his behalf.

Any person acting in the capacity of a custodian within contemplation of the exemptions provided in sections 1802 (b) and 3481 (a) may appoint some person to act as nominee in holding stocks or bonds on his behalf.

The name of the person appointed as nominee of a broker or a custodian shall be registered with the collector for the district in which the principal office of the broker or the custodian is located. Substitution of a nominee may be ef-

fect by likewise registering the name of the successor nominee.

No special form is prescribed for use in registering a nominee.*

§ 113.154 *Record of registration kept by collector and issue of certificate of registration.* Every collector shall preserve each registration statement filed with him in accordance with these regulations.

Upon registration of a person engaged in any of the businesses specified in § 113.152, the collector shall issue to such person a certificate of registration signed by the collector and setting forth the date of issue, the name of the person conducting the business, and the nature of the business for which the certificate is issued. Such certificate shall be kept at the place of business located within the district of the collector by whom the certificate is issued.

Upon registration of any person as a nominee of a broker or custodian, the collector shall issue to the broker or custodian a certificate of registration signed by the collector and setting forth the date of issue, the name of the person registered as nominee, and the name of the broker or custodian on whose behalf the nominee is registered. Such certificate shall be kept at the principal place of business of the broker or custodian to whom the certificate is issued.

In either case, the certificate of registration must be held available for inspection by internal revenue officers.*

ASSESSMENT

[SEC. 1809. PAYMENT OF TAX.]

(b) *Method of Payment.*

(2) *Assessment.* All internal revenue laws relating to the assessment and collection of taxes shall be extended to and made a part of this chapter, so far as applicable, for the purpose of collecting stamp taxes omitted through mistake or fraud from any instrument, document, paper, writing, parcel, package, or article named herein.

SEC. 3640. ASSESSMENT AUTHORITY.

The Commissioner is authorized and required to make the inquiries, determinations, and assessments of all taxes and penalties imposed by this title, or accruing under any former internal revenue law, where such taxes have not been duly paid by stamp at the time and in the manner provided by law.

SEC. 3312 (As Amended by SECTION 508 (a) OF THE SECOND REVENUE ACT OF 1940). PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION.

Except in the case of income, war-profits, excess-profits, estate, and gift taxes—

(a) *General rule.* All internal revenue taxes shall (except as provided in subsections (b), (c), and (d)) be assessed within four years after such taxes became due, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of five years after such taxes became due.

(c) *Willful attempt to evade tax.* In case of a willful attempt in any manner to defeat or evade tax, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(d) *Collection after assessment.* Where the assessment of any tax imposed by this

title has been made within the statutory period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court, but only if begun—

(1) Within six years after the assessment of the tax, or

(2) Prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the taxpayer.

SEC. 3655. NOTICE AND DEMAND FOR TAX.

(a) *Delivery.* Where it is not otherwise provided, the collector shall in person or by deputy, within ten days after receiving any list of taxes from the Commissioner, give notice to each person liable to pay any taxes stated therein, to be left at his dwelling or usual place of business, or to be sent by mail, stating the amount of such taxes and demanding payment thereof.

(b) *Addition to tax for nonpayment.* If such person does not pay the taxes, within ten days after the service or the sending by mail of such notice, it shall be the duty of the collector or his deputy to collect the said taxes with a penalty of 5 per centum additional upon the amount of taxes, and interest at the rate of 6 per centum per annum from the date of such notice to the date of payment; except that in the case of income, estate or gift taxes, such penalties shall not apply and the interest for nonpayment of tax shall be such as is specifically provided by law with respect to such taxes.

SEC. 3659. RECEIPTS FOR TAXES.

(a) *In general.* Every collector and deputy collector shall give receipts for all sums collected by him, excepting only when the same are in payment for stamps sold and delivered; but no collector or deputy collector shall issue a receipt in lieu of a stamp representing a tax.

SEC. 3690. AUTHORITY TO DISTRAIN.

If any person liable to pay any taxes neglects or refuses to pay the same within ten days after notice and demand, it shall be lawful for the collector or his deputy to collect the said taxes, with such interest and other additional amounts as are required by law, by distraint and sale, in the manner provided in this subchapter, of the goods, chattels, or effects, including stocks, securities, bank accounts, and evidences of debt, of the person delinquent as aforesaid.

§ 113.155 *Assessment of stamp tax.* Where instruments subject to stamp tax are no longer in existence or cannot possibly be stamped or where a taxpayer, after being advised of his liability, refuses to affix stamps, the tax will be reported for assessment. When an assessment is paid a receipt on Form 1 will be issued. Where stamps are purchased and affixed to the instrument no receipt on Form 1 will be issued.*

§ 113.156 *Interest and penalty accruing upon nonpayment of assessment.* Where assessment is made, and payment is not made within 10 days after the issuance of the first notice and demand (Form 17), there will accrue, under section 3655, a 5 percent penalty and interest at the rate of 6 percent per annum computed upon the entire assessment from the date of issuance of Form 17 until date of payment. Where assessment is settled by partial payments, interest is computed at the above-stated rate from the date of the first 10-day notice through the date of first payment and on the balance from the next succeeding day to the date of the next

payment until the assessment is paid in full.

If a claim for abatement is filed with the collector within 10 days after the date of the issuance of the first notice and demand, the 5 percent penalty does not attach. If the assessment is not paid within 10 days after receipt of notice of rejection of the claim, the 5 percent penalty applies. The filing of the claim does not stay the running of interest, which continues for the full period that intervenes between the date of the first notice and demand and the date of payment.*

JEOPARDY ASSESSMENT

SEC. 3660. JEOPARDY ASSESSMENT.

(a) If the Commissioner believes that the collection of any tax (other than income tax, estate tax, and gift tax) under any provision of the internal-revenue laws will be jeopardized by delay, he shall, whether or not the time otherwise prescribed by law for making return and paying such tax has expired, immediately assess such tax (together with all interest and penalties the assessment of which is provided for by law). Such tax, penalties, and interest shall thereupon become immediately due and payable, and immediate notice and demand shall be made by the collector for the payment thereof. Upon failure or refusal to pay such tax, penalty, and interest, collection thereof by distraint shall be lawful without regard to the period prescribed in section 3690.

(b) The collection of the whole or any part of the amount of such assessment may be stayed by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of the amount collection of which is stayed, at the time at which, but for this section, such amount would be due.

§ 113.157 *Jeopardy assessment.* Whenever in the opinion of the collector it becomes necessary to protect the interests of the Government by effecting immediate collection of tax, the matter shall be promptly reported to the Commissioner by telegram or letter showing the reasons therefor. The communication must state the full name and address of the person involved, the kind and amount of tax due, and the period involved, so that the Commissioner can immediately make appropriate assessment. The amount of such assessment then becomes immediately due and payable, and the collector shall, without delay, issue a notice and demand for payment thereof.

The collection of the whole or any part of the amount of such assessment may be stayed by filing with the collector a bond in such amount, not exceeding double the amount with respect to which the stay is desired, and with such sureties as the collector deems necessary, conditioned upon the payment of the amount, collection of which is stayed, at the time at which such amount would normally be due.

Upon refusal to pay, or failure to pay or give bond, the collector shall proceed immediately to effect collection, by distraint, without regard to the 10-day period after notice and demand prescribed in section 3690.*

REDEMPTION OF STAMPS

SEC. 3304. REDEMPTION OF STAMPS.

(a) *Authorization.* The Commissioner, subject to regulations prescribed by the Secretary, may, upon receipt of satisfactory evidence of the facts, make allowance for or redeem such of the stamps, issued under authority of law, to denote the payment of any internal revenue tax, as may have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use, or which through mistake may have been improperly or unnecessarily used, or where the rates or duties represented thereby have been excessive in amount, paid in error, or in any manner wrongfully collected.

(b) *Method and conditions of allowance.* Such allowance or redemption may be made, either by giving other stamps in lieu of the stamps so allowed for or redeemed, or by refunding the amount or value to the owner thereof, deducting therefrom, in case of repayment, the percentage, if any, allowed to the purchaser thereof; but no allowance or redemption shall be made in any case until the stamps so spoiled or rendered useless shall have been returned to the Commissioner, or until satisfactory proof has been made showing the reason why the same can not be returned; or, if so required by the said Commissioner, when the person presenting the same cannot satisfactorily trace the history of said stamps from their issuance to the presentation of his claim as aforesaid.

(c) *Time for filing claims.* No claim for the redemption of or allowance for stamps shall be allowed unless presented within four years after the purchase of such stamps from the Government.

(d) *Finality of Commissioner's decisions.* The finding of facts in and the decision of the Commissioner upon the merits of any claim presented under or authorized by this section shall, in the absence of fraud or mistake in mathematical calculation, be final and not subject to revision by any accounting officer.

§ 113.158 *Redemption of stamps.* Where documentary stamps are rendered useless by gumming or sticking together in transit or otherwise without fault of the purchaser, they may be exchanged by a collector for other stamps of the same quantity and denomination.

Documentary stamps which have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use, or which through mistake have been improperly or unnecessarily used, or have been used in excess of the amount of tax actually due, may be redeemed upon proper claim filed with the collector.*

§ 113.159 *Claims for redemption.* All claims for the redemption of or allowance for stamps must be on Form 843, and must be filed with the collector within four years after the purchase of the stamps from the Government. The stamps must be submitted with the claim, or if it is impracticable to remove the stamps from the instruments to which they are attached, they must be presented to a deputy collector or other internal revenue representative, who shall write on the face of the stamps the words "claim for refund filed," and attach to the claim a statement showing that such endorsement has been made. In any

case where the actual date of purchase of the stamps from the Government can not be given, it must be definitely shown in the claim whether they were so purchased within four years prior to the date of filing of the claim.*

ABATEMENTS AND REFUNDS

SEC. 3770 (AS AMENDED BY SECTION 508 (b) OF THE SECOND REVENUE ACT OF 1940). AUTHORITY TO MAKE ABATEMENTS, * * * AND REFUNDS.

(a) *To taxpayers.*

(1) *Assessments and collections generally.* Except as otherwise provided by law in the case of income, war-profits, excess-profits, estate, and gift taxes, the Commissioner, subject to regulations prescribed by the Secretary, is authorized to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected.

(2) *Assessments and collections after limitation period.* Any tax (or any interest, penalty, additional amount, or addition to such tax) assessed or paid after the expiration of the period of limitation properly applicable thereto shall be considered an overpayment and shall be credited or refunded to the taxpayer if claim therefor is filed within the period of limitation for filing such claim.

(3) *Date of allowance.* Where the Commissioner has signed a schedule of overassessments in respect of any internal revenue tax imposed by this title, the Revenue Act of 1932, or any prior revenue Act, the date on which he first signed such schedule (if after May 28, 1928) shall be considered as the date of allowance of refund or credit in respect of such tax.

SEC. 3313. PERIOD OF LIMITATION UPON REFUNDS AND CREDITS.

All claims for the refunding or crediting of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected must, except as otherwise provided by law in the case of income, war-profits, excess-profits, estate, and gift taxes, be presented to the Commissioner within four years next after the payment of such tax, penalty, or sum. The amount of the refund (in the case of taxes other than income, war-profits, excess-profits, estate, and gift taxes) shall not exceed the portion of the tax, penalty, or sum paid during the four years immediately preceding the filing of the claim, or if no claim was filed, then during the four years immediately preceding the allowance of the refund.

SEC. 3772. SUITS FOR REFUND.

(a) *Limitations.*

(1) *Claim.* No suit or proceeding shall be maintained in any court for the recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner, according to the provisions of law in that regard, and the regulations of the Secretary established in pursuance thereof.

(2) *Time.* No such suit or proceeding shall be begun before the expiration of six months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of two years from the date of mailing by registered mail by the Commissioner to the taxpayer of a notice of the disallowance of the part of the claim to which such suit or proceeding relates.

(3) *Reconsideration after mailing of notice.* Any consideration, reconsideration, or action by the Commissioner with respect to such claim following the mailing of a notice by registered mail of disallowance shall not operate to extend the period within which suit may be begun. This paragraph shall not operate (A) to bar a suit or proceeding in respect of a claim reopened prior to June 22, 1936, if such suit or proceeding was not barred under the law in effect prior to that date, or (B) to prevent the suspension of the statute of limitations for filing suit under section 3774 (b) (2).

(b) *Protest or duress.* Such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

§ 113.160 *Claims for abatement or refund.* Where a stamp tax is not paid by stamp but the amount thereof is assessed as required by § 113.155, the person against whom the assessment is made may file a claim in abatement thereof, or a claim for refund for any part of the assessment that has been paid. In either case, the claim must be made on Form 843, filed with the collector in whose district the amount claimed was assessed or paid, and supported by a statement of the grounds and evidence on which the claim is based.

A claim for refund of stamp tax paid pursuant to an assessment must be made within four years next after payment of the tax.*

INTEREST ON OVERPAYMENTS OF TAX

SEC. 3771. INTEREST ON OVERPAYMENTS.

(a) *Rate.* Interest shall be allowed and paid upon any overpayment in respect of any internal revenue tax at the rate of 6 per centum per annum.

(b) *Period.* Such interest shall be allowed and paid as follows:

(2) *Refunds.* In the case of a refund, from the date of the overpayment to a date preceding the date of the refund check by not more than thirty days, such date to be determined by the Commissioner, whether or not such refund check is accepted by the taxpayer after tender of such check to the taxpayer. The acceptance of such check shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon.

§ 113.161 *Interest on overpayments.* Interest on overpayments of stamp taxes is allowable in accordance with the provisions of section 3771, irrespective of whether the tax was paid by stamp or through assessment. However, interest is allowable upon amounts paid in redemption of stamps only where the stamps were used in payment of a tax, and in such cases only from the date the stamps were affixed and canceled.*

PENALTIES

SEC. 1820. UNDERPAYMENT OF TAX.

Whoever—

(a) *Instruments.* Makes, signs, issues, or accepts, or causes to be made, signed, issued, or accepted, any instrument, document, or paper of any kind or description whatsoever without the full amount of tax thereon being duly paid * * * is guilty of a misdemeanor and upon conviction thereof shall

pay a fine of not more than \$100 for each offense.

SEC. 1821. NONPAYMENT OR EVASION OF TAX.
(a) *In general.* (1) Any person required under this chapter to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this chapter, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(2) Any person required under this chapter to collect, account for and pay over any tax imposed by this chapter, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this chapter or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(3) Any person who willfully fails to pay, collect, or truthfully account for and pay over, any tax imposed by this chapter, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty of the amount of the tax evaded, or not paid, collected or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected. No penalty shall be assessed under this paragraph for any offense for which a penalty may be assessed under authority of section 3612.

(4) The term "person" as used in this subsection includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(b) *In particular.*—(1) *Capital stock sales or transfers.* Any person liable to pay the tax as provided in subsection (b) of section 1802, or anyone who acts in the matter as agent or broker for such person, who makes any such sale, or who in pursuance of any such sale delivers any certificate or evidence of the sale of any stock, share, interest, or right, or bill or memorandum thereof, as required in that subsection, without having the proper stamps affixed thereto, with intent to evade the provisions of such subsection, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding \$1,000, or be imprisoned not more than six months, or both.

(2) Any person who, with intent to evade the tax provided in subsection (b) of section 1802, falsely makes a certificate accompanying any delivery or transfer shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$1,000, or imprisoned not more than six months, or both.

(3) *Insurance policies.* Any person to or for whom or in whose name any insurance policy or other instrument referred to in section 1804 is issued, or any solicitor or broker acting for or on behalf of such person in the procurement of any such policy or other instrument, shall affix the proper stamps to such policy or other instrument, and for failure to affix such stamps with intent to evade the tax shall, in addition to other penalties provided therefor, pay a fine of double the amount of the tax.

SEC. 1822. USE OF UNCANCELED STAMPS.

Whoever makes use of any adhesive stamp to denote any tax imposed by this chapter without canceling or obliterating such stamp as prescribed in section 1816, is guilty of a misdemeanor and upon conviction thereof shall pay a fine of not more than \$100 for each offense.

SEC. 1823. FRAUDS RELATING TO STAMPS.

Whoever—

(a) *Mutilation or removal.* Fraudulently cuts, tears, or removes from any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this chapter, any adhesive stamp or the impression of any stamp, die, plate, or other article provided, made, or used in pursuance of this chapter;

(b) *Use of mutilated, insufficient, and counterfeit stamps.* Fraudulently uses, joins, fixes, or places to, with, or upon any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this chapter, (1) any adhesive stamp, or the impression of any stamp, die, plate, or other article, which has been cut, torn, or removed from any other vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this chapter; or (2) any adhesive stamp or the impression of any stamp, die, plate, or other article of insufficient value; or (3) any forged or counterfeited stamp, or the impression of any forged or counterfeited stamp, die, plate, or other article;

(c) *Reuse of stamps.*

(1) *Preparation for reuse.* Willfully removes, or alters the cancellation or defacing marks of, or otherwise prepares, any adhesive stamp, with intent to use, or cause the same to be used, after it has already been used;

(2) *Trafficking.* Knowingly or willfully buys, sells, offers for sale, or gives away, any such washed or restored stamp to any person for use, or knowingly uses the same; or

(3) *Possession.* Knowingly and without lawful excuse (the burden of proof of such excuse being on the accused) has in possession any washed, restored, or altered stamp, which has been removed from any vellum, parchment, paper, instrument, writing, package, or article;

shall, upon conviction, be punished by a fine of not more than \$1,000, or by imprisonment for not more than five years, or both, and any such reused, canceled, or counterfeit stamp and the vellum, parchment, document, paper, package, or article upon which it is placed or impressed shall be forfeited to the United States.

SEC. 3793. PENALTIES AND FORFEITURES.

(b) *Fraudulent returns, affidavits, and claims.*

(1) *Assistance in preparation or presentation.* Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a false or fraudulent return, affidavit, claim, or document, shall (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document) be guilty of a felony, and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(2) *Person defined.* The term "person" as used in this subsection includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

SECTION 35, CRIMINAL CODE OF THE UNITED STATES, AS AMENDED BY THE ACT APPROVED APRIL 4, 1938 (52 STAT., 197).

(A) Whoever shall make or cause to be made or present or cause to be presented, for payment or approval, to or by any person or officer in the civil, military, or naval service of the United States, or any department thereof, or any corporation in which the United States of America is a stockholder, any claim upon or against the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, knowing such claim to be false, fictitious, or fraudulent; or whoever shall knowingly and willfully falsify or conceal or cover up by any trick, scheme, or device a material fact, or make or cause to be made any false or fraudulent statements or representations, or make or use or cause to be made or used any false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry in any matter within the jurisdiction of any department or agency of the United States or of any corporation in which the United States of America is a stockholder; or whoever shall enter into any agreement, combination, or conspiracy to defraud the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, by obtaining or aiding to obtain the payment or allowance of any false or fraudulent claim; * * * shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

AUTHORITY FOR REGULATIONS

SEC. 3791. RULES AND REGULATIONS.

(a) *Authorization.*

(1) *In general.* Except as provided in section 1928 (a), Cotton Futures, section 2599, Marihuana, section 2559, Narcotics, section 3176, Liquor, and section 1805, Silver, the Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title.

(2) *In case of change in law.* The Commissioner may make all such regulations, not otherwise provided for, as may have become necessary by reason of any alteration of law in relation to internal revenue.

(b) *Retroactivity of regulations or rulings.* The Secretary, or the Commissioner with the approval of the Secretary, may prescribe the extent, if any, to which any ruling, regulation, or Treasury Decision, relating to the internal revenue laws, shall be applied without retroactive effect.

§ 113.162 Promulgation of regulations.

In pursuance of the provisions of the law, the foregoing regulations are hereby prescribed, and Regulations 71, approved July 16, 1932, as amended (Part 113, Title 26, Code of Federal Regulations), as made applicable to the Internal Revenue Code (53 Stat., Part 1) by Treasury Decision 4885, approved February 11, 1939, are hereby superseded.*

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: November 25, 1941.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 41-8880; Filed, November 26, 1941;
11:24 a. m.]

TITLE 30—MINERAL RESOURCES CHAPTER III—BITUMINOUS COAL DIVISION

[Docket No. A-1082]

PART 321—MINIMUM PRICE SCHEDULE, DISTRICT NO. 1

ORDER GRANTING TEMPORARY RELIEF AND
CONDITIONALLY PROVIDING FOR FINAL RE-
LIEF IN THE MATTER OF THE PETITION OF
DISTRICT BOARD NO. 1 FOR THE ESTABLISH-
MENT OF PRICE CLASSIFICATIONS AND
MINIMUM PRICES FOR THE COALS OF CER-
TAIN MINES IN DISTRICT NO. 1

An original petition, pursuant to sec-
tion 4 II (d) of the Bituminous Coal Act

of 1937, having been duly filed with this
Division by the above-named party, re-
questing the establishment, both tempo-
rary and permanent, of price classifica-
tions and minimum prices for the coals
of certain mines in District No. 1; and

The Director finding that a reasonable
showing of necessity has been made for
the granting of temporary relief in the
manner hereinafter set forth; and

No petitions of intervention having
been filed with the Division in the above-
entitled matter; and

The Director deeming his action neces-
sary in order to effectuate the purposes of
the Act;

Now, therefore, it is ordered, That,
pending final disposition of the above-

entitled matter, temporary relief be, and
the same hereby is, granted as follows:
Commencing forthwith, § 321.7 (*Alphab-
etical list of code members*) is amended
by adding thereto supplement R, and
§ 321.24 (*General prices*) is amended by
adding thereto supplement T, which
supplements are hereinafter set forth
and hereby made a part hereof.

It is further ordered, That pleadings
in opposition to the original petition in
the above-entitled matter and applica-
tions to stay, terminate or modify the
temporary relief herein granted may be
filed with the Division within forty-five
(45) days from the date of this Order,
pursuant to the Rules and Regulations
Governing Practice and Procedure before

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 1

Note: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 321, Minimum Price Schedule for District No. 1 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 321.7 Alphabetical list of code members—Supplement R

[Alphabetical listing of code members having railway loading facilities, showing price classification by size group Nos.]

Mine index No.	Code member	Mine name	Sub- district No.	Seam	Shipping point	Railroad	Freight origin group No.	1	2	3	4	5
946	Bigler, H. F., Jr.	Woodward Twp.	21	D	Houtdale, Pa.	P.R.R.	45	(1)	(1)	F	(1)	(1)
928	Bonchenburg, Catherine (Rose Hill Coal Company)	Dean #9	18	C	Dean, Pa.	P.R.R.	52	(1)	(1)	E	(1)	(1)
941	Burt, William L.	Burt	8	A	Munson, Pa.	NYC	44	(1)	(1)	H	(1)	(1)
947	Carrier & Son (W. W. Carrier)	Harian #2	1	A	Summersville, Pa.	LEF & O	31	F	(1)	F	(1)	(1)
895	Casher, Fred	Casher #2	21	B	Sandy Ridge, Pa.	P.R.R.	45	(1)	(1)	C	(1)	(1)
2823	Cloverdale Mines (E. L. Dongs)	Cloverdale	41	P	Berkley's Mill, Pa.	W.M. Ry.	102	(1)	(1)	G	(1)	(1)
948	Cotroneo, C. F.	Banks Coal Co.	12	B	Sidney, Pa.	P.R.R.	50	(1)	(1)	G	(1)	(1)
913	Crain, George & Robert (George Crain)	Drune	14	D	Oscola Mills, Pa.	P.R.R.	45	(1)	(1)	E	(1)	(1)
942	Davis Coal Co. (Matthew Davis, Sr.)	Davis Coal Co.	14	D	Oscola Mills, Pa.	P. R. R.	45	(1)	(1)	E	(1)	(1)
907	Fehr, George H.	Fehr	7	E & D	Bell's Landing, Pa.	N. Y. C.	44	(1)	(1)	F	(1)	(1)
906	Harding, John	Margaret #3	41	B	Meyersdale, Pa.	B. & O.	100	(1)	(1)	F	(1)	(1)
949	Heckler, B. F. (The "B" Quality Coal Co.)	"B" Quality #5	33	B	Windber, Pa.	P. R. R.	49	(1)	(1)	A	(1)	(1)
2628	Hollis, Harold (Hollis Coal Co.)	Hollis	18	E	Frugality, Pa.	P. R. R.	52	(1)	(1)	F	(1)	(1)
903	Humphrey, Lee B. (The Humphrey Brick & Tile Company)	Sulger #1	5	C	Alhens Mills, Pa.	P. & S.	119	(1)	(1)	F	(1)	(1)
904	Ingham, Headley V.	Ingham	10	B	Kittanning, Pa.	P. R. R.	11	(1)	(1)	H	(1)	(1)
1620	Kline, W. H.	Remington	5	D	Stanton, Pa.	P. & S.	119	(1)	(1)	E	(1)	(1)
850	Miller, William	Miller #2	5	D	Knoxdale, Pa.	B. & O.	119	(1)	(1)	E	(1)	(1)
1846	Nightingale, Thos. (Thos. Nightingale Coal Co.)	Nightingale	40	D	Garrett, Pa.	B. & O.	100	(1)	(1)	O	(1)	(1)
910	Patrician Coal Company c/o W. L. Sherman	Patrician	44	Big Vein	Shaw, W. Va.	W.M. Ry.	68	(1)	(1)	D	(1)	(1)
951	Pile, R. M.	Pile #2	37	D	Coleman, Pa.	B. & O.	100	(1)	(1)	B	(1)	(1)
3153	Raybould, Fred	Imperial	7	C	Clearfield, Pa.	B. & O.	62	(1)	(1)	B	(1)	(1)
3154	Reitler & Sons, F. (Fred Reitler, Jr.)	Reitler #1	28	C	Rollivar, Pa.	P.R.R.	82	(1)	(1)	F	(1)	(1)
899	Slater & Black (Chas. E. Slater)	Lerch	4	B	Reedsburg, Pa.	NYC	38	(1)	(1)	G	(1)	(1)
2370	Snyder, Geo. E.	Snyder	44	Bakersdown	Bayard, W. Va.	W.M. Ry.	68	(1)	(1)	H	(1)	(1)
2984	Spruce Hill Coal Mining Co., c/o John Richardson	Davis	13	A	Madera, Pa.	P.R.R.	45	(1)	(1)	H	(1)	(1)
932	Stratiff, D. W.	Stratiff #6-E	5	E	Hawthorn, Pa.	P.R.R.	75	G	(1)	G	(1)	(1)
934	Stratiff, D. W.	Stratiff #6-D	5	D	Hawthorn, Pa.	P.R.R.	75	G	(1)	E	(1)	(1)
940	White, David	White #1	11	A	Leiper, Pa.	B. & O.	20	G	(1)	G	(1)	(1)
2632	William & Co. (George H. Williams)	David White #1	44	B	Yatesboro, Pa.	W.M. Ry.	112	H	(1)	G	(1)	(1)
		Williams			Gorman, W. Va.	W.M. Ry.	68	H	(1)	H	(1)	(1)

1 Indicates no classifications effective for these size groups.

the Bituminous Coal Division in Proceed-
ings Instituted Pursuant to section 4 II
(d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief
herein granted shall become final sixty
(60) days from the date of this Order,
unless the Director shall otherwise order.

No relief is granted herein for the coals
of the Hercules Mine, Mine Index No.
644, for the reasons set forth in the Order
designating that portion of Docket No.
A-1082 relating to such coals as Docket
No. A-1082, Part II, and scheduling a
hearing therein.

Dated: October 31, 1941.

[SEAL]

H. A. GRAY,
Director.

FOR TRUCK SHIPMENTS

§ 321.24 General prices—Supplement T

(Prices in cents per net ton for shipment into all market areas)

Code member index	Mine index No.	Mine	Sub. dist. No.	County	Seam	All lump coal double screened top size 2" and over					Double screened top size 2" and under					Run of mine modified R/M					2" and under slack					3/4" and under slack				
						1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5
Aaron Mines (Arthur M. Aaron)	912	Aaron	4	Clarion	B	240	215	215	200	190																				
Berkley, Howard A.	908	Berkley	41	Somerset	Pittsburgh																									
Bigler, H. F., Jr.	946	Woodward Twp.	21	Clearfield	D																									
Booterbaugh, Catherine (Rose Hill Coal Company)	928	Dean #9	18	Cambria	C'																									
Burt, William L.	941	Burt	8	Centre	A																									
Calhoun, E. H. (Mrs.)	882	Calhoun	3	Clinton	B																									
Carrier & Son (W. W. Carrier)	947	Harlan #2	1	Clarion	A	245	220	220	210	200																				
Casher, Fred	896	Casher #2	21	Centre	B																									
Cotroneo, C. F.	948	Banks Coal Co.	12	Indiana	B	240	215	215	205	195																				
Crain, George & Robert (George Crain)	913	Drane	14	Clearfield	D																									
Davis Coal Co. (Matthew Davis, Sr.)	942	Davis Coal Co.	14	Clearfield	D																									
Davison & Son, T. H. (T. H. Davison)	955	Bennett	23	Indiana	E																									
Evans, Brooks O.	897	Evans #1	44	Mineral	Big Vein																									
Fehr, George H.	907	Fehr	7	Clearfield	E & D																									
H. C. Coal Co. (Griff T. Haines)	886	Harlan #2	44	Garrett	D																									
Harding, John	906	Margaret #3	41	Somerset	Pgh. & Red																									
Heckler, B. F. (The "B" Quality Coal Co.)	949	"B" Quality #5	33	Somerset	B																									
Humphrey, Lee B. (The Humphrey Brick & Tile Company)	903	Sulger #1	5	Jefferson	C'																									
Ingham, Headley V.	904	Ingham	10	Armstrong	B																									
Johnson, Helmer	944	Troxel	8	Clearfield	C																									
Kriebel, Joseph C.	905	Kriebel	4	Clarion	B	240	215	215	200	190																				
Miller, William	950	Miller #2	5	Jefferson	D																									
Olinger Mines (Clyde Olinger)	914	Olinger	10	Armstrong	E																									
Patrician Coal Company, c/o W. L. Sherman	910	Patrician	44	Mineral	Big Vein																									
Paul, Daniel	909	Saylor	40	Somerset	E																									
Pile, R. M.	951	Pile #2	37	Somerset	D																									
Raybould, Fred	3153	Imperial	7	Clearfield	C'																									
Reitler & Sons, F. (Fred Reitler, Jr.)	3154	Reitler #1	28	Indiana	C																									
Saylor Brothers (John M. Saylor)	900	Saylor Bros.	4	Clarion	C'	240	215	215	200	190																				
Slater & Black (Chas. E. Slater)	899	Lerch	4	Clarion	B	240	215	215	200	190																				
Straitiff, D. W.	952	Straitiff #6-E	5	Jefferson	E	240	215	215	205	195																				
Straitiff, D. W.	953	Straitiff #6-D	5	Jefferson	D																									
Straitiff, D. W.	954	Straitiff #8	1	Clarion	A'	240	215	215	205	195																				
Walker, A. E.	934	Walker	12	Indiana	E																									
Whipkey, William H.	898	Whipkey	40	Somerset	C'																									
White, David	940	David White #1	11	Armstrong	E																									
Williams & Co., George H. (George H. Williams)	2632	Williams	44	Grant	B	235																								
Zimmerman, Harry (New Enterprise Coal Co.)	911	New Enterprise	18	Cambria	B																									

¹ Indicates coal in this size group previously classified and priced.

[F. R. Doc. 41-8818; Filed, November 25, 1941; 10:41 a. m.]

[Docket No. A-1094]

PART 328—MINIMUM PRICE SCHEDULE,
DISTRICT NO. 8ORDER GRANTING TEMPORARY RELIEF AND
CONDITIONALLY PROVIDING FOR FINAL RELIEF
IN THE MATTER OF THE PETITION OF
DISTRICT BOARD NO. 8 FOR THE ESTABLISHMENT
OF PRICE CLASSIFICATIONS AND MINIMUM
PRICES FOR THE COALS OF CERTAIN
MINES IN DISTRICT NO. 8

An original petition, as amended, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting the establishment, both temporary and permanent, of price classifications and minimum

prices for the coals of certain mines in District No. 8; and

It appearing that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and

No petitions of intervention having been filed with the Division in the above-entitled matter; and

The following action being deemed necessary in order to effectuate the purposes of the Act;

It is ordered, That, pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith § 328.11 (Alphabetical list of code members) is amended by adding thereto supplement R-I,

§ 328.21 (Alphabetical list of code members) is amended by adding thereto supplement R-II, § 328.34 (General prices for high volatile coals in cents per net ton for shipment into all market areas) is amended by adding thereto supplement T, which supplements are hereinafter set forth and hereby made a part hereof.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this Order, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief herein granted shall become final sixty (60) days from the date of this Order, unless it shall otherwise be ordered.

No price classifications and no minimum prices are established herein for the coals of the Sizemore Mine of Frank Sizemore because the Division has received no code acceptance from this producer.

Freight Origin Group 250 has been assigned to the coals of the Fleming and McReynolds Mine (Mine Index No. 2240) of Alfred Fleming and Z. B. McReynolds in place of Freight Origin Groups 50 and 30, as requested in the original petition, because it appears more advisable to create a new Freight Origin Group than to assign two Freight Origin Groups to one mine.

Norton, Virginia, has been assigned as the shipping point for the coals of Graham Bros. Mine (Mine Index No. 2690), of G. H. Patrick (M. C. A. D. Coal Company), instead of Esserville, Virginia, as requested by the original petition, because the Division is advised by the original petitioner that this former shipping point is desired, and the code acceptance of this member indicates Norton, Virginia, as the shipping point for this mine. The Freight Origin Group has been changed accordingly from 200, as listed in the original petition, to Freight Origin Group No. 205.

Barbourville, Kentucky, has been assigned as the shipping point for the coals of the Indian Mine (Mine Index No. 3717) of the Brush Creek Fuel Company (J. R. Ketcham) in place of Wilton, Kentucky, as requested in the original petition, because the Division is advised that no proper shipping facilities exist at Wilton, Kentucky, and the code acceptance of this member indicates Barbourville, Kentucky, as the shipping point for this mine.

No price classification and no minimum prices are established herein for the coals of the Hodge Mine (Mine Index No. 3603) of Osborn Mining Co. (Clifford J. Osborn) for rail shipment because the records of the Division indicate that prices were previously established for this mine for rail shipment in Docket A-795 under the name of Mine No. 2 of C. J. Osborn.

The Division is advised by the original

petitioner that the name of the Red Jacket No. 2 Mine (Mine Index No. 797) of J. L. McIntyre has been changed to Macks No. 2 Mine. Price classifications and minimum prices have been established accordingly for this mine under the name Simpson Coal Co. Mine.

The original petition seeks price classification "E" in Size Group 4 for the coals of Mine Index No. 2457 of R. W. Johnson. This price classification is sought for the reason that the coals of this mine are represented to be analogous and comparable to the coals of the Premier Mine of Simpson Coal Co. Mine of

(Mine Index No. 377) of Consumers Mining Corporation, for which price classification "E" in Size Group 4 had been established temporarily in an Order in Docket A-355 dated February 20, 1941. Subsequent to the filing of the original petition in this docket, a final Order in Docket A-355 was issued on October 16, 1941 establishing permanent price classification "D" in Size Group 4 for the coals of the Premier Mine (Mine Index No. 377) of Consumers Mining Corporation.

Consequently, on the basis of the petitioner's representation that the coals of both aforementioned mines are analogous and comparable, price classification "D" in Size Group 4 for the Coals of Mine Index No. 2457 of R. W. Johnson is established herein in place of price classification "E" which was sought in the original petition.

Dated: November 5, 1941.

H. A. GRAY,
Director.

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 8

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 328, Minimum Price Schedule for District No. 8 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 328.11 Alphabetical list of code members—Supplement R-1

[Alphabetical list of Code Members having railway loading facilities, showing price classifications by size groups for all uses except as separately shown]

Mine Index No.	Code member	Mine name	High volatile seam	Subdist.	Shipping point	Railroad	Freight origin group	Price classifications by size group Nos.																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																											
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42	Bertha Jellico Coal Co.	Bertha	Jellico	6	Bertha, Ky.	L&N	111	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)

See footnotes at end of table.

§ 328.11 Alphabetical list of code members—Supplement R-I—Continued

Mine Index No.	Code member	Mine name	High volatile seam	Subst.	Shipping point	Railroad	Freight origin group	Price classifications by size group Nos.																	
								For destinations other than Great Lakes																	
								1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
928	Hodges, Lake	Hodges	Winifrede	8	Lenore, W. Va.	N&W	130	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K
3741	Huddleston, W. M. & Son (W. M. Huddleston)	Huddleston Blue Gem	Blue Gem	6	Vernon, Ky.	L&N	111	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
2123	Hughes, Calvin	Dickerson Coal Co. #1	Clintonwood	7	Allen, Va.	CC&O	16	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
959	Humliet, Glenn	Humliet	Jellico	6	Grays, Ky.	L&N	111	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O
2607	Hurley, Jeff	Jeff Hurley	Hazard #1	6	Combs, Ky.	L&N	100	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K
2333	Jordan & Jordan (Millard Jordan)	Jordan & Jordan #2	Widow Kennedy	7	Cochran, Va.	N&W	30	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K
1248	Justice & Taylor (Hut Justice)	John Kendrick	Elkhorn #3	1	Pikeville, Ky.	C&O	61	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K
971	Keeney, Robert H.	Elizabeth	Top Seam No. 3	6	Somersett, Ky.	Son	171	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
972	King, Joe	Cantrell-King	No. 1	1	Paintsville, Ky.	C&O	61	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D
3632	Kirk, Ken (Kirk Mining Company)	Kirk Ming. Co.	Warfield	8	Kernit, W. Va.	N&W	130	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q	Q
2634	Kiser & McGlothlin (Mont McGlothlin)	Kiser & McGlothlin	Lower Banner	7	Hays, Va.	CC&O	10	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
514	Koppers Coal Company, The	Powellton #1	Peerless	4	Columbia, W. Va.	C&O	123	(C)	(C)	(C)	(C)	(C)	(C)	(C)	(C)	(C)	(C)	(C)	(C)	(C)	(C)	(C)	(C)	(C)	(C)
956	Loyd, Henry	Loyd	Pittsburg	6	London, Ky.	L&N	111	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
979	McIntyre, J. L.	Macks #2	Barnes	8	Fernside, Ky.	L&N	111	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H
1330	Madon, Robert	Madon	Straight Crk.	6	Pineville, Ky.	L&N	111	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
1784	Moore, Burgess	Burgess Moore	Lilly	6	London, Ky.	L&N	111	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
3639	Moore Coal Co., (W. F. Moore)	Moore C. Co. #1	Upper Banner	7	Trammel, Va.	CC&O	30	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
3638	Moore Coal Co., (W. P. Moore)	Moore C. Co. #2	Upper Banner	7	Trammel, Va.	CC&O	30	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
973	Moses, J. W.	Witt	Jellico	6	Savoy, Ky.	L&N	111	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H
990	Murphy, Finley	Napier & Hensley	Straight Crk.	6	Pine Knot, Ky.	Son	171	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O
982	Napier & Hensley (John L. Napier)	Napier & Hensley #2	Straight Crk.	6	Hanby, Ky.	L&N	111	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F	F
3808	Napier & Hensley (John L. Napier)	Napier & Hensley #3	Straight Crk.	6	Hanby, Ky.	L&N	111	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G
3764	New Southland Coal Corporation	Black Mule	Straight Crk. & Jellico	6	Morse, Ky.	L&N	111	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
948	Onest, G. D.	Graham Bros.	Pittsburg	7	Norton, Va.	L&N	208	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O
2690	Patrick, G. K. (Mcab Coal Co.)	Rebecca Mae	Elkhorn #3	1	Lacey, Ky.	C&O	61	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H
3806	Patrick, J. W.	Rebecca Mae	Elkhorn #1	1	Lacey, Ky.	C&O	61	(C)	(C)	(C)	(C)	(C)	(C)	(C)	(C)	(C)	(C)	(C)	(C)	(C)	(C)	(C)	(C)	(C)	(C)
544	Prater, Hiram	Hiram Prater	Hazard No. 4	6	Combs, Ky.	L&N	100	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K
974	Price, Bee & Logan (Logan Price)	Goforth	Hazard No. 4	6	Somersett, Ky.	Son	171	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
944	Roberts, N. R.	Fox	Jellico	6	Woodbine, Ky.	L&N	111	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O
2141	Shecker, W. H.	Shecker	Jawbone & Elkhorn	7	Hays, Va.	CC&O	10	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
3712	Simpson, George M. (Simpson Coal Co.)	Simpson Coal Co.	Cedar Grove	4	Marmet, W. Va.	C&O	123	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
3402	Stallard, Harry P.	Charlton	No. 3	3	Somersett, Ky.	Son	171	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
1354	Stamper, I. D.	I. D. Stamper	Elkhorn	6	Whitesburg, Ky.	L&N	100	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K
3732	Stephens, Elmer W.	Bush	Horse Creek	3	Mt. Vernon, Ky.	L&N	111	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
554	Synamore Coal Company	No. 12	Alma	8	Cincinnati, W. Va.	N&W	150	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H
3664	Utilities Elkhorn Coal Company	Esco No. 10-K	Elkhorn #3	1	Esco, Ky.	C&O	61	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K
3666	Wright Coal Company (F. A. Wright)	Wright	Upper Elkhorn	1	Pikeville, Ky.	C&O	61	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K	K
3357	Whites, Ed. & Son (Ed. Whites)	Clifty Creek	No. 3-Top Seam	6	Somersett, Ky.	Son	171	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
4104	Williams, J. A.	Stons	No. 2 Gas	4	Peytana, W. Va.	C&O	123	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
3906	Osborne Mining Co. c/o Clifford J. Osborne	Hodge	Horse Creek	6	Corbly, Ky.	L&N	111	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M

* Indicates coal in this size group previously classified and priced.
 † Indicates no classifications effective for these size groups.
 ‡ Change in Mine Name.

§ 328.34 General prices for high volatile coals in cents per net ton for shipment into all market areas—Supplement T—Continued
[Prices in cents per net ton for shipment into all market areas]

Code member index	Mine	Mine Index No.	Seam	Base sizes							
				Lump over 24" and under, egg 4" x 6"	Lump 24" and under, egg 3" x 6"	Lump 24" and under	Lump 18" and under	Egg 24" x 4", egg 2" x 5"	Stove 3" and under, nut 2" and	Straight mine run	1/4" and under; slack
SUBDISTRICT No. 1—BIG SANDY ELKHORN—Continued	MORGAN COUNTY, KY.	Lewis	No. 7	265 245 210	220	205	200 150 145				
ADKINS, Cecil	PIKE COUNTY, KY.	No. 2	Brooks	270 230 205	205	195	185 140 135				
				275 235 220	220	215	210 170 165				
CONWAY Fuel Company, Inc.	FRIEND, Penn.	Esco No. 10-K	Wright	285 265 235	240	215	225 185 180				
				275 255 220	220	215	210 170 165				
SUBDISTRICT No. 3—HAZARD	LETCHER COUNTY, KY.	Collins & Adams	No. 4	275 255 220	220	205	210 160 155				
				275 255 220	225	205	210 155 150				
Lusk & Brown (J. R. Lusk)	PERRY COUNTY, KY.	Lusk & Brown	No. 4	275 255 220	225	205	210 155 150				
				275 255 220	225	205	210 155 150				
SUBDISTRICT No. 4—KANAWHA	KANAWHA COUNTY, W. VA.	Eureka Coal Company	No. 1	280 260 220	230	205	210 160 155				
				280 260 220	230	205	210 160 155				
MEANS, W. S.	SIMPSON, George M. (Simpson Coal Co.)	Hudson Hollow	No. 2	280 260 220	230	205	210 160 155				
				285 265 225	235	210	215 175 170				
SUBDISTRICT No. 6—SOUTHERN APPALACHIAN	BELL COUNTY, KY.	Johnson, J. O. & O. R. Johnson	Straight Creek	285 275 225	245	215	215 165 160				
				285 275 225	245	215	215 165 160				
Hale, H. S.	HARRARD, Theo.	Log Cabin	No. 2	285 265 220	240	215	210 155 150				
				285 265 220	240	215	210 155 150				
SUBDISTRICT No. 7—HAZARD	LETCHER COUNTY, KY.	Crooked Creek Coal Company	No. 1	285 265 220	240	215	210 155 150				
				285 265 220	240	215	210 155 150				
Hooten Creek Coal Co., c/o Thomas Owens	Hooten Creek Coal Co., c/o Thomas Owens	Hooten Creek Coal Co.	No. 1	285 265 220	240	215	210 155 150				
				285 265 220	240	215	210 155 150				

§ 328.21 Alphabetical list of code members—Supplement R-II
[Alphabetical list of code members having railway loading facilities, showing price classifications by size groups for all uses except as separately shown]

Mine Index No.	Code member	Mine name	Subdistrict No.	Low volatile seam	Shipping point	Railroad	Freight group No.	Price classifications by size group Nos.									
								1	2	3	4	5	6	7	8	9	10
2434	Altizer, W. I.	W. I. Altizer	9	Cary	Raven, Va.	N&W	21	C	C	D	D	D	C	C	H	H	H
2457	Johnson, R. W.	R. W. Johnson Coal Co.	9	Raven	Doran, Va.	N&W	21	C	C	D	D	D	A	A	H	H	H

FOR TRUCK SHIPMENTS

§ 328.34 General prices for high volatile coals in cents per net ton for shipment into all market areas—Supplement T
[Prices in cents per net ton for shipment into all market areas]

Code member index	Mine	Mine Index No.	Seam	Base sizes							
				Lump over 24" and under, egg 4" x 6"	Lump 24" and under, egg 3" x 6"	Lump 18" and under	Lump 14" and under	Egg 24" x 4", egg 2" x 5"	Stove 3" and under, nut 2" and	Straight mine run	1/4" and under; slack
SUBDISTRICT No. 1—BIG SANDY ELKHORN	BOYD COUNTY, KY.	Holley, Grant	No. 7	265 245 210	220	205	200 150 145				
				265 245 210	220	205	200 150 145				
CHANDLER, E. J.	CARTER COUNTY, KY.	Chandler, E. J.	No. 7	265 245 210	220	205	200 150 145				
				265 245 210	220	205	200 150 145				
ELLIOTT COUNTY, KY.	ELLIOTT COUNTY, KY.	Watson, Fannin	No. 7	265 245 210	220	205	200 150 145				
				265 245 210	220	205	200 150 145				
PATRICK, J. W.	JOHNSON COUNTY, KY.	Rebecca Mae	No. 3	285 265 225	230	215	215 165 160				
				285 265 225	230	215	215 165 160				
CASTLE & CRIDER (D. H. Crider)	LEITCHER COUNTY, KY.	Castle & Crider	No. 1	305 285 235	240	215	225 170 165				
				305 285 235	240	215	225 170 165				
COLLIER, Lloyd	COLLIER, Lloyd	Lloyd Collier	No. 1	275 255 220	230	205	210 160 155				
				275 255 220	230	205	210 160 155				

§ 328.34 General prices for high volatile coals in cents per net ton for shipment into all market areas—Supplement T—Continued

Code member index	Mine	Seam	Mine index No.	Base sizes								Code member index	Mine	Seam	Mine index No.	Base sizes													
				1	2	3	4	5	6	7	8					1	2	3	4	5	6	7	8						
SUBDISTRICT NO. 6—SOUTHERN APPALACHIAN—Continued																													
KNOX COUNTY, KY.																													
Bertha Jellico Coal Co.	Bertha	Jellico	49	(*)	(*)	(*)	225	205	205	(*)	155	150																	
Brush Creek Fuel Co. (J. R. Ketchum)	Indian	Jellico	3717	255	235	225	225	205	205	205	215	155	150																
Dobson, Dan			939	255	235	225	225	205	205	205	215	155	150																
Elliot, Bob			3714	Blue Gem																									
Humbeet, Glenn			959	Jellico																									
New Southland Coal Corporation	No. 1		3764	Straight Creek & Jellico																									
Roberts, N. R.	Fox		944	Jellico																									
Shorter, Alex & Ben Wynn (Alex Shorter)	Shorter		953	Blue Gem																									
LAUREL COUNTY, KY.																													
Carr, Paris			928	Lilly																									
Loyd, Henry			3690	Pittsburgh																									
McQueen, John			937	Peacock																									
Onest, G. D.	Black Mule		948	Pittsburgh																									
Root, Delbert	Newton		934	Stray																									
Wages, Alex	Sordum		934	Stray																									
Wells, Jesse O.	Rockhouse		3646	Wood Creek																									
LESLIE COUNTY, KY.																													
Morgan, G. C.			3731																										
M'CREARY COUNTY, KY.																													
Murphy, Finley			990																										
PULASKI COUNTY, KY.																													
Baker, Ben F.			3635	No. 4																									
Farmer & Baker (W. C. Farmer)			3637	No. 4																									
Kenny, Robert H.			971	Top Seam-No. 3																									
Price, Bee & Logan (Logan Price)			974																										
Whitaker, William Harvey			3734	No. 3-Top Seam																									
ROCKCASTLE COUNTY, KY.																													
Barron, Lee			922	Horse Creek																									
Bullock, Ernest E.			994	Horse Creek																									
Stephens, Elmer W.			3732	Horse Creek																									
WHITLEY COUNTY, KY.																													
Davis Jellico Coal Company, c/o Jennie Davis			3715	Jellico																									
Denham, A. W.			980	Jellico																									
Goley, Frank			938	Blue Gem																									
Huddleston, W. M. & Son (W. M. Huddleston)			3741	Blue Gem																									

* Indicates previously classified these size groups.

§ 328.34 General prices for high volatile coals in cents per net ton for shipment into all market areas—Supplement T—Continued

Code member index	Mine	Seam	Base sizes							
			Lump over 24", egg 4" x 6"	Lump 24" and under, egg 3" x 6"	Lump 34" and under	Egg 24" x 4", egg 24" x 5"	Stove 3" and under, but 2" and	Straight mine run	2" and under, slack	3/4" and under, slack
SUBDISTRICT NO. 8—WILLIAMSON PIKE COUNTY, KY. Charles, Blaine.....	Charles.....	1000 Cedar Grove.....	245 225 225	210	200	215	160	135		
MINGO COUNTY, W. VA. Hodges, Jake..... Kirk, Ken (Kirk Mining Com- pany)..... Newsom, Isaac.....	Hodges..... Kirk Ming. Co..... Newsom.....	938 Winifrede..... 952 Warfield..... 930 Winifrede.....	275 255 220	220	205	210	165	160		
			245 225 210	200	185	200	140	135		
			275 255 220	220	205	210	165	160		

CANNEL COAL

Code member index	Mine	Seam	Base sizes			
			Lump over 5"	Perked	Chips	Cut- tings
SUBDISTRICT NO. 1—BIG SANDY-ELKHORN MORGAN COUNTY, KY. Rose, Jeff..... Stephens, Sanford.....	Rose..... Adkins & Stephens.....	925 3, 713 Cannel	\$3.50	\$3.00	\$2.50	\$1.60
			3.50	3.00	2.50	1.60

[F. R. Doc. 41-8317; Filed, November 25, 1941; 10:41 a. m.]

[Docket Nos. A-1114 and A-1115]

PART 329—MINIMUM PRICE SCHEDULE, DISTRICT NO. 9

ORDER OF CONSOLIDATION AND ORDER GRANT-
ING TEMPORARY RELIEF AND CONDITION-
ALLY PROVIDING FOR FINAL RELIEF IN THE
MATTER OF THE PETITION OF DISTRICT
BOARD NO. 9 FOR THE ESTABLISHMENT OF
PRICE CLASSIFICATIONS AND MINIMUM
PRICES FOR COALS PRODUCED BY CERTAIN

MINES IN DISTRICT NO. 9 FOR TRUCK SHIP-
MENT AND IN THE MATTER OF THE PETI-
TION OF DISTRICT BOARD NO. 9 FOR THE
ESTABLISHMENT OF PRICE CLASSIFICATIONS
AND MINIMUM PRICES FOR COALS PRODUCED
BY CERTAIN MINES IN DISTRICT NO. 9 FOR
RAIL SHIPMENT

Original petitions having been duly
filed with this Division by the above-
named party, pursuant to section 4 II
(d) of the Bituminous Coal Act of 1937,

requesting the establishment, both tem-
porary and permanent, of price classi-
fications and minimum prices for the
coals of certain mines in District No. 9;

and
It appearing to the Director that the
above-entitled matters raise similar and
related issues; and

The Director finding that a reasonable
showing of necessity has been made for
the granting of temporary relief in the
manner hereinafter set forth; and

No petitions of intervention having
been filed with this Division in the above-
entitled matters; and

The Director deeming his action neces-
sary in order to effectuate the purposes
of the Act;

It is ordered, That the above-entitled
matters be, and the same hereby are,
consolidated.

It is further ordered, That, pending
final disposition of the above-entitled
matters, temporary relief be, and the
same hereby is, granted as follows: Com-
mencing forthwith § 329.5 (Alphabetical
list of code members) is amended by add-
ing thereto supplement R, and § 329.24
(General prices in cents per net ton for
shipment into any market area) is
amended by adding thereto supplement
T, which supplements are hereinafter set
forth and hereby made a part hereof.

It is further ordered, That pleadings in
opposition to the original petitions in the
above-entitled matters, and applications

to stay, terminate, or modify the tempo-
rary relief herein granted may be filed
with the Division within forty-five (45)
days from the date of this order, pursu-
ant to Rules and Regulations Govern-
ing Practice and Procedure Before the
Bituminous Coal Division in Proceedings
Instituted Pursuant to section 4 II (d) of
the Bituminous Coal Act of 1937.

It is further ordered, That the relief
herein granted shall become final sixty
(60) days from the date of this order,
unless the Director shall otherwise order.

No prices are established herein for the
coals of the Embury Mine (Mine Index
No. 747) of Purdie Embury, successor to
Vernon Embury for Truck Shipment be-
cause Price Classifications and Effective
Minimum Prices for Truck Shipment have
been established previously for this mine
in Docket No. A-349.

No prices are established herein for
the coals of the Bracher Mine (Claude
Embry) Mine Index No. 487 of Embury
and Bracher successors to W. H. Bracher
because Price Classifications and Effec-
tive Minimum Prices for Truck Shipment
have been established previously for the
coals of this mine in Supplement No. 2
to the Schedule of Effective Minimum
Prices for District No. 9 for Truck Ship-
ment.

Dated: November 3, 1941.

[SEAL]

H. A. GRAY,
Director.

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 9
NOTE: The material contained in these supplements is to be read in the light of the classi-
fications, prices, instructions, exceptions and other provisions contained in Part 329, Minimum
Price Schedule for District No. 9 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 329.5 Alphabetical list of code members—Supplement R

Mine index No.	Code member	Mine	Seam	Freight origin group No.	Shipping point	Railroad
50	Red Valley Coal Co.....	Red Valley 1.....	No. 6.....	30	Mammoth, Ky.....	L&N
752	Williams, H. B.....	Williams 1.....	Stray.....	170	Penrod, Ky.....	L&N

¹ The f. o. b. mine prices for coal shipped by Mine Index Nos. 40 and 753 to any Market Area in any size group and
for any use, including Railroad Locomotive Fuel, are the same as the prices shown for Dawson Daylight Coal Com-
pany, Dawson Daylight No. 6 mine, Mine Index No. 19, in Price Schedule No. 1 for District No. 9 for All Shipments
Except Truck.

§ 329.24 General prices in cents per net ton for shipment into any market areas—Supplement T

Code member index	Mine index No.	Mine	Seam	Prices and size group Nos.																	
				1, 2	3	4	5	6	7	8	9	10, 11, 12	13, 14	15	17	18, 19, 20	21, 22	23, 24	25	26, 27	28, 29
BUTLER COUNTY																					
Cardwell Bros. (Harrison Cardwell)	956	Cardwell	Stray	225	215	175	170	160	160	150	140	130	50							120	115
Hunt, Clyde	965	Hawkes #2	Stray	235	225	175	170	160	160	150	140	130	50							120	115
CHRISTIAN COUNTY																					
Red Valley Coal Co., c/o J. L. Herron	50	Red Valley	#2	220	210	200	195	185	185	180	175	160	100							170	165
DAVIES COUNTY																					
Smith, Wm. E.	959	Bill #1	#2	205	195	185	175	170	160	160	150	140	110	50						120	115
Smith, Wm. E.	966	Bill #2	#9	205	195	185	175	170	160	160	150	140	110	50						120	115
OHIO COUNTY																					
Helm, Olney	957	Olney	#2	205	195	185	175	170	160	160	150	140	110	50						120	115
Horton, George S.	954	Sarah	#9	205	195	185	175	170	160	160	150	140	110	50						120	115
Satterfield, L. W.	961	C. T. B. #2	#9	205	195	185	175	170	160	160	150	140	110	50						120	115

[F. R. Doc. 41-8321; Filed November 25, 1941; 10:42 a. m.]

[Docket No. A-807]

**PART 331—MINIMUM PRICE SCHEDULE,
DISTRICT NO. 11**

ORDER APPROVING AND ADOPTING PROPOSED FINDINGS OF FACT AND PROPOSED CONCLUSIONS OF LAW OF THE EXAMINER AND GRANTING RELIEF IN THE MATTER OF THE PETITION OF THE BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 10 REQUESTING A PRELIMINARY AND PERMANENT ORDER FOR CHANGE OF DISTRICT NO. 11 PRICES FOR SHIPMENT INTO MARKET AREAS 49 AND 67

This proceeding was instituted upon a petition filed with the Bituminous Coal Division, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, by District Board 10. The petition requests revision of the effective minimum prices for the coals of District No. 11 for shipment into Market Areas 49 and 67. Petitions to intervene were filed by District Boards 11 and 12. The Consumers' Counsel Division filed a notice of appearance.

Pursuant to an Order of the Director, and after due notice to all interested persons, a hearing in this matter was held before Edward J. Hayes, a duly designated Examiner of the Division, at a hearing room thereof in Washington, D. C.

The Examiner, on September 9, 1941, submitted his Report, Proposed Findings of Fact, Proposed Conclusions of Law, and Recommendations, recommending that the relief requested herein be granted. He found that the relationship between the coals of Districts Nos. 10 and 11 in Market Areas 49 and 67 was out of line with that existing elsewhere, and that in order to preserve the existing fair competitive opportunities between the coals of these two districts in these market areas, it was necessary that the minimum prices of these coals f. o. b. the mine be changed so that the coals from these two districts deliver in these market areas in the same relationship as they do in Market Areas 29 and 41.

An opportunity was afforded to all

parties to file exceptions to the Proposed Findings of Fact, Proposed Conclusions of Law, and Recommendations of the Examiner and supporting briefs. No exceptions or supporting briefs have been filed.

The undersigned has determined that the Proposed Findings of Fact and Proposed Conclusions of Law of the Examiner in this matter should be approved and adopted as the Findings of Fact and Conclusions of Law of the undersigned.

Now, therefore, it is ordered, That the said Proposed Findings of Fact and Proposed Conclusions of Law of the Examiner be and they hereby are approved and adopted as the Findings of Fact and Conclusions of Law of the undersigned.

It is further ordered, That § 331.9 (Adjustments in f. o. b. mine prices) and § 331.8 (General prices) in the Schedule of Effective Minimum Prices for District No. 11 for All Shipments Except Truck should be amended as follows:

(a) Establish Market Area No. 49 in Price Table No. 5 (subject to price instructions and exceptions and to adjustments in f. o. b. mine prices as shown in § 331.9 (Adjustments in f. o. b. mine prices) in the annexed supplement R-I) in § 331.8 (General prices) in the said schedule.

(b) Establish Market Area No. 67 in Price Table No. 6 (subject to price instructions and exceptions and to adjustments in f. o. b. mine prices as shown in the § 331.9 (Adjustments in f. o. b. mine prices) in the annexed supplement R-II) in § 331.8 (General prices) in the said schedule.

It is further ordered, That the prayers for relief contained in the petition herein, and they hereby are granted to the extent set forth above, and in all other respects denied.

Dated: October 22, 1941.

[SEAL]

H. A. GRAY,
Director.

§ 331.9 Adjustments in *f. o. b. mine prices*—Supplement R-II

[Freight origin group numbers and the amount of additions for freight rate differences for coal shipped from mines included in each freight origin group to New Sharon in market area No. 67]

Destinations in market area 67	Brazil Clinton		Linton Sullivan		Princeton Ayrshire		Boonville
	L	F	L	F	L	F	
New Sharon.....	20	16	20	16	20	16	20

[F. R. Doc. 41-8820; Filed, November 25, 1941; 10:42 a. m.]

[Docket No. A-1120]

PART 331—MINIMUM PRICE SCHEDULE,
DISTRICT NO. 11

ORDER GRANTING TEMPORARY RELIEF AND CONDITIONALLY PROVIDING FOR FINAL RELIEF IN THE MATTER OF THE PETITION OF DISTRICT BOARD 11 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 11, FOR TRUCK SHIPMENTS

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting the establishment, both temporary and permanent, of price classifications and minimum prices for the coals of certain mines in District No. 11, for truck shipments; and

The Director finding that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and No petitions of intervention having been filed with the Division in the above-entitled matter; and

The Director deeming his action neces-

sary in order to effectuate the purposes of the Act:

It is ordered, That, pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith, § 331.24 (*General prices in cents per net ton for shipment into all market areas*) is amended by adding thereto supplement T, which supplement is hereinafter set forth and hereby made a part hereof.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this Order, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief herein granted shall become final sixty (60) days from the date of this Order, unless the Director shall otherwise order.

Dated: October 31, 1941.

[SEAL]

H. A. GRAY,
Director.

EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 11

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 331, Minimum Price Schedule for District No. 11 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 331.9 Adjustments in *f. o. b. mine prices*—Supplement R-I

[Freight origin group numbers and the amount of deduction for freight rate differences for coal shipped from mines included in each freight origin group to certain destinations in market area No. 49]

Destinations in market area 49	Brazil Clinton		Linton Sullivan		Princeton Ayrshire		Boonville
	L	F	L	F	L	F	
Brooklyn.....	4	4	4	4	4	4	4
Carnforth.....	4	4	4	4	4	4	4
Carnforth Jet.....	4	4	4	4	4	4	4
Clutter.....	20	20	20	20	20	20	20
Dillon.....	20	20	20	20	20	20	20
Dinsdale.....	20	20	20	20	20	20	20
Dunbar.....	20	20	20	20	20	20	20
Dysart.....	20	20	20	20	20	20	20
Garrison.....	20	20	20	20	20	20	20
Garwin.....	20	20	20	20	20	20	20
Gilman.....	20	20	20	20	20	20	20
Gladbrook.....	20	20	20	20	20	20	20
Green Mountain.....	20	20	20	20	20	20	20
Grunwell.....	20	20	20	20	20	20	20
Hartwick.....	20	20	20	20	20	20	20
Hicks.....	20	20	20	20	20	20	20
Hudson.....	20	20	20	20	20	20	20
Juvenile Home.....	20	20	20	20	20	20	20
Ladera.....	20	20	20	20	20	20	20
LeGrand.....	20	20	20	20	20	20	20
Lincoln.....	20	20	20	20	20	20	20
Madeira.....	20	20	20	20	20	20	20
Marshalltown.....	20	20	20	20	20	20	20
Monticello.....	20	20	20	20	20	20	20
Monrovia.....	20	20	20	20	20	20	20
Newburg.....	20	20	20	20	20	20	20
New Grove.....	20	20	20	20	20	20	20
Pickering.....	20	20	20	20	20	20	20
Quarry.....	20	20	20	20	20	20	20
Reinbeck.....	20	20	20	20	20	20	20
Searsboro.....	20	20	20	20	20	20	20
Toledo.....	20	20	20	20	20	20	20
Trout.....	20	20	20	20	20	20	20
Victor.....	4	4	4	4	4	4	4

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 11

NOTE: The material contained in this supplement is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 331, Minimum Price Schedule for District No. 11 and supplements thereto.

FOR TRUCK SHIPMENTS

§ 331.24 General prices in cents per net ton for shipment into all market areas—Supplement T

Code member index	Mine index No.	Mine	Seam	Prices and size group nos.																															
				1	2	3	4	5	6	7	8	9	10, 11, 12	13	14	15	16	17	18, 20	19	21	22	23	24	25	26	27	28	29	30	31	32	33	34	
CLAY COUNTY																																			
Sycamore Valley Coal Corporation c/o Bessie H. P. Schuh.....	166	Sycamore Valley.....	B	310	285	265	255	250	245	215	215	195	185	155	145	90	50																		
GREENE COUNTY																																			
Hallett, Walter.....	167	Hoosier Queen No. 3.....	5	250	245	240	230	225	220	180	185	175	170	150	140	85	55																		
WARREN COUNTY																																			
Scales, Norman & Sons (Woodrow Scales).....	161	Scales.....	5	250	245	240	230	225	220	180	185	175	170	150	140	85	55																		

[F. R. Doc. 41-8816; Filed, November 25, 1941; 10:41 a. m.]

[Docket No. A-513]

PART 334—MINIMUM PRICE SCHEDULE,
DISTRICT NO. 14

FINDINGS OF FACT, CONCLUSIONS OF LAW,
MEMORANDUM OPINION AND ORDER IN THE
MATTER OF THE PETITION OF KEENER MIN-
ING COMPANY, A PRODUCER IN DISTRICT
NO. 14, FOR THE ASSIGNMENT OF MINIMUM
PRICES

This is a matter instituted upon an original petition filed on December 21, 1940 with the Bituminous Coal Division pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, by the Keener Mining Company, a code member producer in District 14. Petition requests the establishment of effective minimum prices for the coals of its Keener No. 3 mine (Mine Index No. 213) when shipped by rail or truck to all market areas.

On January 31, 1941, 6 F.R. 924, an Order of the Director granted temporary relief and conditionally provided for final relief, and consolidated these proceedings

with those in Dockets Nos. A-409 and A-512.

District Board 14 filed a petition of intervention seeking to terminate the temporary relief granted as to the coals produced at Mine Index No. 213.¹

On June 27, 1941, an Order of the Director was issued severing Docket No. A-513 from Dockets Nos. A-409 and A-512. Pursuant to said Order, a hearing was held in this matter on July 30, 1941 and August 1, 1941 before D. C. McCurtain, a duly designated Examiner of the Division, at a hearing room thereof in Fort Smith, Arkansas. All interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard.

¹ At the hearing and by an amendment to the original petition filed on August 9, 1941, petitioner changed the requested effective minimum prices as to certain sizes. Thereupon, District Board 14 withdrew its petition of intervention and supported the petition, as amended.

Appearances were entered by the petitioner and District Board 14.

The preparation and filing of a report by the examiner was waived, and the matter was thereupon submitted to the undersigned.

The Keener Mining Company, a corporation, operates Keener Mine No. 3 (Mine Index No. 213) near Bokoshe, Oklahoma. The coals of the Keener Mine No. 3 are mined by the slope system and are then shipped over the Fort Smith and Van Buren Railroad. Although no truck shipments have as yet been made, coals can be trucked over a nearby state highway. Operation of the mine was begun about November 1940, and since then about 2,365 tons of coal have been produced, chiefly for use as railroad fuel.

Uncontroverted evidence was introduced by Frank Gunther, a representative of District Board 14, that the effective minimum prices requested in the amended petition reflect the relative

market value of the Keener Mine No. 3 coals and will afford them a reasonable opportunity to compete on a fair basis with comparable coals.

Accordingly, the undersigned finds and concludes that the establishment of such effective minimum prices as set forth in supplements "R" and "T" effectuate the purpose of section 4 II (a) and 4 II (b) of the Act, and that the prices as set forth comply with all the standards thereof.

Now, therefore, it is ordered, That commencing forthwith \$ 334.5 (Alphabetical list of code members) is amended by adding thereto supplement R, and by adding thereto supplement T, and \$ 334.24 (General prices for shipment into all market areas) is amended by adding thereto supplement T, which supplements are hereinafter set forth and hereby made a part hereof.

Dated: October 30, 1941.

[SEAL]

H. A. GRAY,
Director.

FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 14

Note: The material contained in these supplements is to be read in the light of the classifications prices instructions and other provisions contained in Part 334 Minimum Price Schedule for this District and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 334.5 Alphabetical list of code members—Supplement R

[Alphabetical list of code members showing price classification by size group for all uses except railroad locomotive fuel]

Line Index No.	Code member	Mine name	Prod. group	Shipping point	Railroad	Freight origin	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
213	Keener Mining Company (W. T. Graham).	Keener #3.....	7	Bokoshe, Okla.....	FtS&VB-MV...	20																				

FOR TRUCK SHIPMENTS

§ 334.24 General prices for shipment into all market areas—Supplement T

[Prices in cents per net ton for shipment into all market areas]

Mine index No.	Code member	Mine name	Prod. group No.	County	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
213	Keener Mining Company (W. T. Graham)...	Keener #3.....	7	LeFlore, Oklahoma...				425			425	425	400	360	355		200	135	115	105	185	330		

[F. R. Doc. 41-8819; Filed, November 25, 1941; 10:42 a. m.]

[Docket No. A-1104]

PART 335—MINIMUM PRICE SCHEDULE, DISTRICT NO. 15

ORDER GRANTING TEMPORARY RELIEF AND CONDITIONALLY PROVIDING FOR FINAL RELIEF IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 15 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS PRODUCED AT CERTAIN MINES IN DISTRICT NO. 15

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this

Division by the above-named party, requesting the establishment, both temporary and permanent, of price classifications and minimum prices for the coals produced at certain mines in District No. 15; and

It appearing that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and

No petitions of intervention having been filed with the Division in the above-entitled matter; and

The following action being deemed necessary in order to effectuate the purposes of the Act;

It is ordered, That, pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith § 335.5 (Alphabetical list of code members) is amended by adding thereto supplement R, and § 335.24 (General prices in cents per net ton for shipment into all market areas) is amended by adding thereto supplement T, which supplements are hereinafter set forth and hereby made a part hereof.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the

temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this Order, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief herein granted shall become final sixty (60) days from the date of this Order, unless it shall otherwise be ordered.

Dated: November 5, 1941.

[SEAL]

H. A. GRAY,
Director.

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 15

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 335, Minimum Price Schedule for District No. 15 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 335.5 Alphabetical list of code members—Supplement R

[Alphabetical list of code members showing price classification by size group for domestic, commercial and industrial use]

Mine index No.	Code member	Mine name	Production group No.	Shipping point	Railroad	Freight origin group No.	Price classification by size group														
							1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
1517	Braden, J. L. (Braden Coal Co.)	Braden	8	Wilburton, Okla.	MKT	101	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
1496	Halterman, O. E.	Halterman #2	3	Moberly, Mo.	Wabash	111	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
1499	Halterman, W. C.	Halterman #1	3	Moberly, Mo.	Wabash	111	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
1510	Okla. Coal Company (c/o Paul C. Adams)	Oologah	11	Oologah, Okla.	MP	173	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
1498	Wilson & Refett (Luther Wilson)	Klein #3	3	Moberly, Mo.	Wabash	111	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

A is Market Area list price; C, minus 10 cents from list price.

FOR TRUCK SHIPMENTS

§ 335.24 General prices in cents per net ton for shipment into all market areas—Supplement T

Code member index	Mine index No.	Mine	Prod. group No.	County	1 3' lump	2 1 1/2' dn	3 10" x 1 1/2"	4 10" x 1 1/2"	5 3" x 2 1/2"	6 3" x 1 1/2"	7 2" x 1 1/2"	8 1 1/2" x 1"	9 Mine run	10 3" x 0	11 1 1/2" x 3/4"	12 1 1/2" x 1/2" (R)	13 1 1/2" x 0 (W)	14 1 1/2" x 0 (R)	15 1/4" x 0
Arthur Cooperative Coal Co. (Tom Latcham, Sr.)	1502	Arthur Coop. No. 2...	2	Vernon, Mo.....	250	250	250	250	225	210	195	190	210	185	185	170	170	150	35
Braden	1517	Braden	8	Lathimer, Okla.....	435	435	435	385	295	335	210	210	295	165	170	155	140	140	35
Braden, J. L. (Braden Coal Co.)	1517	Braden	1	Cherokee, Kans.....	260	260	260	260	295	270	205	210	220	195	190	170	155	140	35
Cain, Charles	1507	Cain	11	Craig, Okla.....	330	330	330	300	295	270	205	160	220	140	150	115	115	115	35
Carver, M. A.	1507	Carver	1	Crawford, Kans.....	260	260	260	260	295	295	205	210	220	195	170	155	125	125	35
Coalvale Coal Co. (Otis Harris)	1516	Coalvale	1	Cedar, Mo.....	260	260	260	260	295	295	205	210	220	195	170	155	125	125	35
Conner, Lester M.	1503	Conner	1	Cedar, Mo.....	260	260	260	260	295	295	205	210	220	195	170	155	125	125	35
Cronan	1504	Cronan	1	Randolph, Mo.....	230	230	230	230	215	205	195	185	210	180	185	170	170	110	35
Fogle, Walter (Fogle Mining Co.)	1523	#3	6	Franklin, Kans.....	345	345	345	345	230	215	200	190	230	335	335	335	195	185	35
Fowler, R. M.	1515	Hardscrabble	3	Putnam, Mo.....	230	230	230	230	230	230	215	160	220	185	210	195	185	185	35
Gross, C. L.	1521	Gross	11	Craig, Okla.....	330	330	330	300	275	270	245	220	285	205	220	205	115	115	35
Hale Coal Co., Inc., c/o Kenneth Kilkeany	1500	Hale Coal Co. #1	4	Curral, Mo.....	285	285	285	285	275	255	195	185	210	180	185	170	170	110	35
Halterman, O. E.	1496	Halterman #1	3	Randolph, Mo.....	230	230	230	230	215	205	195	185	210	180	185	170	170	110	35
Halterman, W. C.	1496	Halterman #2	3	Randolph, Mo.....	230	230	230	230	215	205	195	185	210	180	185	170	170	110	35
Hickadon, H. E.	1513	Hickadon	1	Bates, Mo.....	250	250	250	250	225	210	195	190	210	185	185	170	155	135	35
Hill Side Coal	1519	Hill Side Coal	1	Crawford, Kans.....	260	260	260	260	295	295	205	210	220	195	170	155	135	135	35
Jones, Evered	1497	Jones	3	Randolph, Mo.....	230	230	230	230	215	205	195	185	210	180	185	170	170	110	35
Lovel Coal Co. (C. L. Dale)	1190	Lovel Coal Co.	3	Randolph, Mo.....	230	230	230	230	215	205	195	185	210	180	185	170	170	110	35
Lanney, Sherman (Okmulgee Coal Co.)	1520	Lanney	10	Okmulgee, Okla.....	360	360	360	315	300	275	200	160	235	140	160	165	165	125	35
Martin, Leslie	1514	Martin	2	Putnam, Mo.....	230	230	230	230	225	210	195	180	210	185	185	170	155	155	35
Miles & Whited	1512	Miles & Whited	2	Bates, Mo.....	230	230	230	230	225	210	195	180	210	185	185	170	155	155	35
Oologah	1510	Oologah	11	Rogers, Okla.....	230	230	230	230	225	210	195	190	210	185	185	170	170	110	35
Paul C. Adamson	1522	Pence #1	2	Henry, Mo.....	230	230	230	230	215	205	185	180	210	180	185	170	170	110	35
Pence Coal Company	1522	Pence #2	2	Henry, Mo.....	230	230	230	230	215	205	185	180	210	180	185	170	170	110	35
Potts Bros. (George Potts)	1508	Potts	10	Callaway, Mo.....	360	360	360	315	300	275	200	160	235	140	160	165	165	125	35
Puckett, Virgil	1509	Puckett	3	Okmulgee, Okla.....	230	230	230	230	215	205	195	185	210	180	185	170	170	110	35
Russell, D. D.	1332	Turtle #3	1	Roward, Mo.....	260	260	260	260	295	295	205	210	220	195	170	155	155	135	35
Wilkey & Gibson (Arie Wilkey)	1307	Wilkey	3	Vernon, Mo.....	230	230	230	230	215	205	195	185	210	180	185	170	170	110	35
Wilson & Reiffert (Luther Wilson)	1485	Klein #3	3	Randolph, Mo.....	230	230	230	230	215	205	195	185	210	180	185	170	170	110	35

[Docket No. A-1118]

PART 342—MINIMUM PRICE SCHEDULE,
DISTRICT NO. 22

ORDER GRANTING TEMPORARY RELIEF AND CONDITIONALLY PROVIDING FOR FINAL RELIEF IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 22 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 22

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting the establishment, both temporary and permanent, of price classifications and minimum prices for the coals of certain mines in District No. 22; and

The Director finding that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and

No petitions of intervention having been filed with the Division in the above-entitled matter; and

The Director deeming that this action is necessary in order to effectuate the purposes of the Act;

Now, therefore, it is ordered, That, pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith § 342.4 (Code member price index) is amended by adding thereto supplement T-I, and § 342.21 (General prices) is amended by adding thereto supplement T-II, which supplements are hereinafter set forth and hereby made a part hereof.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted, may be filed with the Division within forty-five (45) days from the date of this Order, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief herein granted shall become final sixty (60) days from the date of this Order, unless the Director shall otherwise order.

Dated: November 7, 1941.

[SEAL]

H. A. GRAY,
Director.

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 22

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 342, Minimum Price Schedule for District No. 22 and supplements thereto.

FOR TRUCK SHIPMENTS

The following price classifications and minimum prices shall be inserted in Price Schedule No. 1 for District No. 22:

§ 342.4 Code member price index—Supplement T-I

Insert the following listings in proper alphabetical order:

Code member	Mine	Mine index No.	County	Sub-district price group
Cowen, Hall	Cowen	301	Fergus	4
Kopper, Stanley	Kopper	300	Musselshell	9
Nies & Lowery		302	Musselshell	1
Payne, Oscar	Payne	303	Gallatin	6

§ 342.21 General prices—Supplement T-II

Insert the following code member names, mine names and counties under Sub-districts 1, 4, 6 and 9, and the following prices:

Code member mine name	County	Size groups												
		1	2	2A	3	4	5	6	7	8	9	10	11	12
SUBDISTRICT NO. 1														
Nies & Lowery.....	Musselshell.....	400	375		400		375		275	250	175	110	95	75
SUBDISTRICT NO. 4														
Cowen, Hall Cowen Mine.....	Fergus.....		400	325					275		150	110		75
SUBDISTRICT NO. 6														
Payne, Oscar Payne Mine.....	Gallatin.....		450										200	
SUBDISTRICT NO. 9														
Kopper, Stanley Kopper Mine.....	Musselshell.....	350	325				300		250		150	100		

[F. R. Doc. 41-8814; Filed, November 25, 1941; 10:40 a. m.]

TITLE 32—NATIONAL DEFENSE

CHAPTER VI—SELECTIVE SERVICE
SYSTEM

[Amendment No. 113]

AMENDING THE REGULATIONS WITH RELATION TO THE EMPLOYMENT OF OFFICE ASSISTANTS FOR LOCAL BOARDS.

By virtue of the provisions of the Selective Training and Service Act of 1940 (54 Stat. 885) and the authority vested in me by the rules and regulations prescribed by the President thereunder, I hereby amend, effective February 1, 1942, the Selective Service Regulations, Volume Five, Section XL, by deleting Paragraph 517 thereof and substituting therefor the following:

517. Office assistants, local boards: Employment of. (a) Local board employees must be employed under civil service laws and civil service rules and regulations. They are not, however, subject to the provisions of the Classification Act of 1923, which provides for the classification grades and pay scale for certain civilian positions. They are neither given classification grades nor is their compensation fixed or governed by the provisions of that Act. Each local board shall by a majority vote determine the individuals to be employed, and the chairman of the local board shall act as the appointing officer. Each local board may by a majority vote designate one of its employees as the clerk of the local board.

(b) The number of persons employed by each local board on a full-time, temporary, part-time, or intermittent basis and the rates of compensation to be paid shall be fixed by the State Director of Selective Service in accordance with instructions given and limitations imposed by the Director of Selective Service. Before fixing the rates of compensation to be paid to employees of a local board, the State Director of Selective Service should determine the rates being paid in the same community for the same or similar services, and the rates of compensation fixed by him should not exceed that amount.

(c) Each local board may employ, in the manner provided by the civil service laws and civil service rules and regulations (see Section XLIV, Volume Five, Selective Service Regulations), the number of persons authorized by the State Director of Selective Service at rates of compensation not exceeding those fixed by the State Director of Selective Service. All persons employed by the local board must be citizens of the United States, loyal, of good character and habits, and have good records in previous employments. They must be able to meet the physical standards required by the United States Civil Service Commission for their respective positions. All cler-

15 F.R. 3936.

cal employees of every local board must possess the following minimum qualifications: Training equivalent to that represented by graduation from high school, at least 1 year's successful experience in clerical work, ability to type accurately, ability to handle the records and paper work involved in classification, and mental alertness.

(d) Before any compensation is paid to any local board employee or before any local board employee's rate of compensation is changed, a report must be executed, in quintuplicate, by the local board on Report of Employment, Separation, or Status Change for Local Board Employee (Form 250) and shall be distributed as follows: The original and all four copies shall be forwarded to the State Director of Selective Service, who, if he approves the employment or change of status, will endorse his approval on the original and each of the four copies, forward the original and one copy to the manager of the appropriate civil service district, two copies to the local board, and retain one copy in his files; the local board shall attach one copy to the next pay roll affected and retain one copy in its files; the manager of the civil service district will forward the original to the Director of Selective Service.

(e) When the local board finds that the employment of any clerk or other employee of the local board unnecessary or the rate of compensation excessive, it shall be the duty of the local board to discontinue such employment or to reduce such compensation.

(f) When the State Director of Selective Service or the Director of Selective Service finds the employment of any clerk or other employee of a local board unnecessary or the rate of compensation excessive, it shall be his duty to order the discontinuance of such employment or the reduction of such compensation.

(g) The State Director of Selective Service or the Director of Selective Service, when he deems it to be in the best interest of the Selective Service System, may authorize the joint employment of an individual by two or more local boards.

LEWIS B. HERSHEY,
Director.

NOVEMBER 22, 1941.

[F. R. Doc. 41-8847; Filed, November 25, 1941; 3:11 p. m.]

CHAPTER XI—OFFICE OF PRICE ADMINISTRATION

[Amendment No. 1, Price Schedule No. 33]
PART 1307—RAW MATERIALS FOR COTTON TEXTILES

PRICE SCHEDULE FOR CARDED COTTON YARN

Price Schedule No. 33 is hereby amended in the following respects:

A. Section 1307.53, *Evasion*,¹ is amended to read as follows:

¹ 6 F. R. 5091.

§ 1307.53 *Evasion*. (a) The price limitations set forth in this Schedule shall not be evaded whether by direct or indirect methods in connection with a purchase, sale, delivery or transfer of carded cotton yarn, alone, or in conjunction with any other material, or by way of any commission, service, transportation, or other charge, or discount, premium, or other privilege, or by tying-agreement or other trade understanding, or otherwise.

(b) No price agreed upon in any contract shall be changed by amendment of such contract, by substitution therefor of a new contract, or otherwise (whether or not such change is made pursuant to the terms of the original contract) if the change so effected results in an agreed price in excess of the maximum price applicable under § 1307.60 hereof, in accordance with the date the original contract was made, to the original contract or to deliveries pursuant thereto.²

B. Section 1307.60 (b) (3)³ is amended to read as follows:

§ 1307.60 Appendix A, *maximum prices for carded cotton yarns*.

(b) * * *

(3) *Delivery or transfer*.⁴ By the cotton spot price of the business day immediately preceding that on which the sale or contract of sale is made, regardless of any change in the cotton spot price subsequent thereto, except that, when the sale or contract of sale was made on or before July 20, 1941, the applicable maximum price shall be determined on the basis of a cotton spot price of 15.99 cents per pound.

C. That portion of this amendment designated as A shall become effective November 27, 1941.

That portion of this amendment designated as B shall be effective as of October 6, 1941.

(Executive Orders Nos. 8734, 8875, 6 F. R., 1917, 4483)

Issued this 26th day of November 1941.

LEON HENDERSON,
Administrator.

[F. R. Doc. 41-8878; Filed, November 26, 1941; 11:21 a. m.]

[Amendment No. 1, Price Schedule No. 35]

PART 1316—COTTON TEXTILES

PRICE SCHEDULE FOR CARDED GREY AND COLORED-YARN COTTON GOODS

Price Schedule No. 35¹ is hereby amended in the following respects:

¹ 6 F. R. 5335.

² Paragraph (b) is effective on and after November 27, 1941.

³ 6 F. R. 5092.

⁴ This method of determining the maximum price shall be used in connection with deliveries and transfers pursuant to sales or contracts of sale made before, as well as on or after, the applicable ceiling date.

A. Section 1316.53, *Evasion*, is amended to read as follows:

§ 1316.53 *Evasion*. (a) The price limitations set forth in this Schedule shall not be evaded whether by direct or indirect methods in connection with a purchase, sale, delivery or transfer of cotton goods, alone or in conjunction with any other material, or by way of any commission, service, transportation, or other charge, or discount, premium, or other privilege, or by tying-agreement or other trade understanding, or otherwise.

(b) No price agreed upon in any contract shall be changed by amendment of such contract, by substitution therefor of a new contract, or otherwise (whether or not such change is made pursuant to the terms of the original contract) if the change so effected results in an agreed price in excess of the maximum price applicable under § 1316.61 hereof, in accordance with the date the original contract was made, to the original contract or to deliveries pursuant thereto.²

B. Section 1316.55, *Details Required in Contract of Sale and Invoice*, is amended by striking the word "off-loom" wherever it appears.

C. The three unnumbered paragraphs of § 1316.61 under the caption, *Arrangement of the Appendix*, are amended to read as follows:

§ 1316.61 Appendix A, *maximum prices for cotton goods*.

Paragraph (a) contains, in summary form, the maximum prices, as established prior to October 21, 1941, and certain premiums allowable for the types of cotton goods theretofore subject to Price Schedule No. 11, but on and after that date subject to this Schedule. The maximum prices set forth in paragraph (a) are applicable to such types of goods only when they are delivered pursuant to a sale or contract of sale entered into prior to the above-mentioned date; otherwise such goods are subject to the prices appearing in paragraph (b).

Paragraph (b) contains maximum prices for all cotton goods subject to this Schedule. As qualified by paragraph (c), these maximum prices are applicable to all transactions except those subject to paragraph (a).

Paragraph (c) sets forth the conditions under which, in addition to the otherwise applicable maximum prices as found in paragraphs (a) and (b), premiums may be paid for (1) cotton goods made to special physical requirements established by the buyer, (2) cotton goods of demonstrably superior quality, and (3) window-shade cloth.

D. Paragraph (a) of § 1316.61 is amended by adding thereto, following the second unnumbered paragraph thereof, the following:

In addition to the maximum prices set forth in the table immediately below, the following premiums may be charged:

² Paragraph (b) is effective on and after November 27, 1941.

(1) The premiums allowable under § 1316.61 (c) below.	
(2) For narrow print cloths:	Cents per lb.
Of widths:	
32 1/4" to 28 1/2", inclusive	2
28 1/4" to 26", inclusive	3
25 1/4" to 24", inclusive	4
23 1/4" to 21", inclusive	5
(3) For print cloths with total thread count per square inch of 72 to 99, both inclusive	1 1/2
(4) For high-count Class C sheetings:	
130 to 139, inclusive, total threads per square inch	1
140 to 159, inclusive, total threads per square inch	2 1/2
160 and more total threads per square inch	4

Nothing herein contained shall authorize any of the above premiums to be charged in connection with any deliveries made before October 21, 1941.

E. Paragraph (b) (1) (iii) of § 1316.61 is amended to read as follows:

(iii) *Delivery or transfer.*² By the spot cotton price of the business day immediately preceding that on which the sale or contract of sale is made, regardless of any change in the spot cotton price subsequent thereto, except that, where the sale or contract of sale was made on or before July 20, 1941, the applicable maximum price shall be determined on the basis of a spot cotton price of 15.99 cents per pound.

F. Tables III and III-A of paragraph (b) (4) of § 1316.61 are amended by substituting for the word "Osnaburg," under the heading "Type and Class of Cloth," the words "Part-waste Osnaburgs," and by striking from Table III-A the third column, entitled "Thread Count (total threads per square inch—all numbers inclusive)."

G. Footnote 1 to Table V of paragraph (b) (4) of § 1316.61 is amended to read as follows:

¹ The maximum prices set forth herein are for fabrics 36 or more inches in width. The maximum price for a fabric of any lesser width shall be that price which stands in the same relation to the applicable price set forth herein (i. e., for the same cloth of 36-inch width) as does its width to 36 inches.

Maximum prices for cloths of weights other than those listed herein (for the same type of cloth) shall be determined, in proportion to weight, from the maximum price for the cloth of that type and of the nearest weight.

H. Paragraph (c) (1) of § 1316.61 is amended to read as follows:

(1) In addition to the maximum prices set forth in paragraphs (a) and (b) a

² Except as provided in paragraph (a), this method of determining the maximum price shall be used in connection with deliveries and transfers pursuant to sales or contracts of sale made before, as well as on or after, the applicable ceiling date.

³ Sales under "open-price" contracts, pursuant to which the price is to be determined as of a date subsequent to that on which the contract is entered into, are permissible hereunder, provided that the contract (1) specifies the quantity of goods to be delivered and (2) fixes the exact date upon which the price is to be settled. In connection with such contracts the date on which the price is settled shall be regarded, for purposes of paragraph (b), as the day on which the sale or contract of sale is made.

premium may be demanded, charged, paid or accepted for cotton goods (other than window-shade cloth) made pursuant to specifications furnished by the buyer establishing special physical requirements which cannot be met by the same goods of commercial quality: *Provided*, That, except in accordance with permission granted under § 1316.61 (c) (3):

(i) The premium shall not exceed the highest differential in price charged (in cents over the then prevailing market price of the same goods of commercial quality) by the seller for goods of the same specifications during the 12 months immediately prior to June, 1941, or, if no such goods have been sold by the seller during that period, 5 percent of the otherwise applicable maximum price;

(ii) No premium shall be charged hereunder, unless the specifications to which the goods are made were issued by the buyer prior to July 21, 1941.

I. Paragraph (c) (3) of § 1316.61 is amended to read as follows:

(3) Application may be made by any buyer, or, where goods have been sold but not delivered prior to the applicable ceiling date, by any seller, to the Office of Price Administration for permission to pay or accept, in addition to the maximum prices appearing in paragraphs (a) or (b), a premium for (i) cotton goods made to such buyer's specifications issued on or after July 21, 1941; (ii) specification goods of a kind not manufactured by a seller during the 12 months immediately prior to June 1941, and for which the buyer considers it fair to pay such seller a premium of more than 5 per cent over the otherwise applicable maximum price; (iii) specification goods of a kind manufactured and sold by a seller during the 12 months immediately prior to June 1941 under such circumstances that the highest differential in price charged (in cents over the then prevailing market price of the same goods of commercial quality) by such seller during said 12-month period does not represent a fair and equitable return for the additional manufacturing cost entailed in meeting the specifications for such goods; (iv) cotton goods of a quality demonstrably superior to that of the same goods of staple commercial grade; or (v) window-shade cloth. Such application shall state in detail (i) the specifications, if any, to which the goods are made; (ii) the use to which the goods are to be put; (iii) the reasons, if any, why goods of staple commercial quality would not be satisfactory for such use; and (iv) the person or persons, if any, from whom the goods were purchased and the premiums, if any, paid (in cents over the prevailing market prices of the same goods of commercial quality) for such goods during the 3 years preceding the application. Upon receipt of any such application the Office of Price Administration will permit any person affected by such application to file a written statement setting

forth facts pertinent to the issue of whether permission to pay a premium should be granted, and if so, in what amount; and will conduct such further investigation as it deems necessary and proper. No permission will be granted hereunder unless it is shown that it is essential to the buyer's business to obtain goods of the type for which he seeks to pay a premium and that the seller is entitled to receive a premium for such goods, and unless the Administrator finds that production of such goods would not be inconsistent with the interests of national defense. Permission granted to any buyer or to any seller hereunder will constitute authority for the other to accept or pay, as the case may be, the premium approved therein. In granting any permission hereunder the Office of Price Administration will require appropriate reports to be filed by the buyer and seller.

J. Those portions of this amendment designated as B, C, D, E, F, G, H, and I shall be effective as of October 21, 1941.

That portion of this amendment designated as A shall become effective November 27, 1941.

(Executive Orders Nos. 8734, 8875, 6 F.R. 1917, 4483)

Issued this 26th day of November 1941.

LEON HENDERSON,
Administrator.

[F. R. Doc. 41-8879; Filed, November 26, 1941; 11:21 a. m.]

Notices

WAR DEPARTMENT.

[Contract No. W-398-qm-10327; O. I. #4671]

SUMMARY OF CONTRACT FOR SUPPLIES

CONTRACTOR: FARGO MOTOR CORPORATION,
DETROIT, MICHIGAN

Contract for: Trucks * * *
Amount, \$9,215,785.00.

Place: Holabird Quartermaster Depot,
Baltimore, Maryland.

This contract, entered into this 2nd day of June 1941.

Article 1. *Scope of this contract.* The contractor shall furnish and deliver Trucks * * *, Total \$9,215,785.00, in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

ART. 2. *Changes.* Where the supplies to be furnished are to be specially manufactured in accordance with drawings and specifications, the contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications. Changes as to shipment and packing of all supplies may also be made as above provided.

ART. 5. *Delays—Damages.* If the contractor refuses or fails to make deliveries of the materials or supplies within the time specified in Article 1, or any extension thereof, the Government may by

written notice terminate the right of the contractor to proceed with deliveries or such part or parts thereof as to which there has been delay.

ART. 8. Payments. The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or when requested by the contractor, payments for accepted partial deliveries shall be made whenever such payments would equal or exceed either \$1,000 or 50 percent of the total amount of the contract.

Variations. Quantities listed hereon are subject to increase of not to exceed ****%. This increase option to remain in effect until ****.

Terms of payment. Discount will be allowed for prompt payment as follows: 30 calendar days \$**** per truck.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to procurement authorities QM 15915 P 37-30 A 0525.003-12, QM 15915 P 37-30 A 0525.005-12, ORD 8505 P 2-30 A 0151-01, ORD 7677 P 11-30 A 1005-01, ORD 7663 P 11-30 A 1005-01, ORD 7885 P 11-30 A 1005-01, ORD 7659 P 2-30 A 0141-01, ORD 8569 P 11-30 A 1005-01, ORD 7399 P 2-30 A 0141-01, ORD 8016 P 11-30 A 1005-01, ORD 8295 P 11-30 A 1005-01, ORD 8226 P 11-30 A 1005-01, ORD 8760 P 11-30 A 1005-01, ORD 7887 P 11-30 A 1005-01, ORD 7890 P 11-30 A 1005-01, ORD 7661 P 2-30 A 0141-01, the available balances of which are sufficient to cover cost of same.

This contract authorized under section 1 (a), Act of July 2, 1940 (Public No. 703).

FRANK W. BULLOCK,
Lt. Col., Signal Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 41-8852; Filed, November 26, 1941;
9:25 a. m.]

[Contract No. W-398-qm-69; O. I. #69]

SUMMARY OF CONTRACT FOR SUPPLIES

CONTRACTOR: YELLOW TRUCK & COACH MANUFACTURING COMPANY, (GENERAL MOTORS TRUCK & COACH DIVISION), PONTIAC, MICHIGAN

Contract for: Trucks * * *
Amount: \$1,699,933.20.
Place: Holabird Quartermaster Depot, Baltimore, Maryland.

This contract, entered into this 22d day of September 1941.

ARTICLE 1. Scope of this contract. The contractor shall furnish and deliver * * * Trucks * * * for the consideration stated \$1,699,933.20 in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

ART. 2. Changes. Where the supplies to be furnished are to be specially manufactured in accordance with drawings and specifications, the contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications. Changes as to shipment and packing of all supplies may also be made as above provided.

ART. 5. Delays—Damages. If the contractor refuses or fails to make deliveries of acceptable articles within the times specified in Article 1, or any extension or extensions thereof, the Government may, by written notice, terminate the right of the contractor to proceed with the delivery of all or any portion of the undelivered articles covered by this contract.

ART. 8. Payments. The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the contractor, payments for accepted partial deliveries shall be made whenever such payments would equal or exceed either \$1,000 or 50 percent of the total amount of the contract.

ART. 15. Termination when contractor not in default. If, in the opinion of the contracting officer upon the approval of the Secretary of War, the best interests of the Government so require, this contract may be terminated by the Government, even though the contractor be not in default, by a notice in writing relative thereto from the contracting officer to the contractor.

Terms of payment. Discount will be allowed for prompt payment as follows: 20 calendar days \$ * * * per vehicle.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to procurement authority QM 22006 P 241-30 A 0022-13, the available balance of which is sufficient to cover cost of same.

This contract authorized under section 1 (a) Act of July 2, 1940 (Public No. 703—76th Congress).

FRANK W. BULLOCK,
Lt. Col., Signal Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 41-8853; Filed, November 26, 1941;
9:25 a. m.]

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. A-1079]

PETITION OF DISTRICT BOARD NO. 10 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 10 FOR RAIL SHIPMENT

MEMORANDUM OPINION AND ORDER GRANTING IN PART TEMPORARY RELIEF

An original petition pursuant to section 4 II (d) of the Bituminous Coal Act of 1937 was filed with this Division in the above-entitled docket by District Board 10, requesting the establishment, both temporary and permanent, of price classifications and minimum prices for certain coals produced in District 10 for rail shipment. These coals are produced at a number of mines heretofore classified and priced only for truck shipment. The petition sets forth that these mines will, if relief is granted, load their coals for rail shipment from facilities at Marion, Illinois, maintained by the McLaren Fuel Company in conjunction with a preparation plant which it is erecting at that point; and that coals of these mines with a top size of 2" or less will be prepared at this plant.

The original petition did not contain sufficient facts to warrant the granting of either temporary or permanent relief without a hearing, and the matter was consequently set down for hearing on November 24, 1941, by a Notice of and Order for hearing dated October 20, 1941. Subsequently, District Board 10 filed a motion for immediate temporary relief, setting forth certain additional facts. It is now alleged that screenings currently stored on the ground of the mines for which relief is prayed are deteriorating due to weather conditions, and are commencing to heat, and that unless temporary relief is granted the mines will be unable to find an outlet for these coals. No petitions of intervention have been filed in this matter.

It now appears that there is an urgent need for temporary relief in advance of a hearing, and that the granting of such relief will not unduly prejudice the interests of other parties.

Now, therefore, it is ordered, That a reasonable showing of necessity having been made, temporary relief in the above-entitled matter is hereby granted as follows: Commencing forthwith the Schedule of Effective Minimum Prices for District No. 10 for All Shipments Except Truck is supplemented temporarily by including the price classifications and minimum prices set forth in the Schedule marked "Temporary supplement R", annexed hereto and hereby made a part hereof.

Notice is hereby given that applications to stay, modify or terminate the temporary relief granted in this Order may be

filed in accordance with the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

The temporary relief herein granted is not to be construed as in any way constituting a ruling, or expression of the Director's opinion, concerning the propriety of any arrangements which may be undertaken in connection with the preparation or marketing of the coals in ques-

tion. Rail shipments made pursuant to the relief herein granted must, of course, be reported in accordance with the requirements of the Marketing Rules and Regulations and outstanding orders of the Division.

Nothing herein shall be taken as an expression of the views of the Director concerning the final disposition of this proceeding.

Dated: November 4, 1941.

[SEAL]

H. A. GRAY,
Director.

TEMPORARY EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 10

NOTE: The material contained in this Temporary Supplement R is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Price Schedule No. 1 for this District and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

Supplement R

Price group No.	Producer	Mine	Mine Index No.	Freight origin group	Shipping point	Railroad
5	Angel & Fry	Cedar Hill	1171	142	Marion, Ill.	IC-MP.
5	Black Banner Coal Co. (Carl H. Grisham)	Black Banner Coal Co.	1183	142	Marion, Ill.	IC-MP.
5	Bradely, Jack	Quality Coal Co.	1176	142	Marion, Ill.	IC-MP.
5	Brown, David	Blue Ribbon #2	1178	142	Marion, Ill.	IC-MP.
5	Brown & Roberts Coal Company	Brown & Roberts	1179	142	Marion, Ill.	IC-MP.
5	Cline, Oscar (Square Deal Coal Co.)	Square Deal	1305	142	Marion, Ill.	IC-MP.
5	Corder, Vallie (Vallie Corder Coal Mine)	Vallie Corder	1184	142	Marion, Ill.	IC-MP.
5	Cox, Lester	Cox	1216	142	Marion, Ill.	IC-MP.
5	Diamond Star Coal Co. (Loren Scott)	Diamond Star	1185	142	Marion, Ill.	IC-MP.
5	Ferges Bros. (Ed Ferges)	Ferges Bros.	1239	142	Marion, Ill.	IC-MP.
5	Fry, C. F.	Walnut Valley	1188	142	Marion, Ill.	IC-MP.
5	Gentry, Ed. (New Black Diamond Coal Co.)	Black Diamond #4	1190	142	Marion, Ill.	IC-MP.
5	Graves, M. C.	M. C. Graves	1232	142	Marion, Ill.	IC-MP.
5	Helm, R. E.	Helm #3	1192	142	Marion, Ill.	IC-MP.
5	Henson, Loren	Henson Coal Co.	1221	142	Marion, Ill.	IC-MP.
5	Hickey Coal Company	Hickey	1193	142	Marion, Ill.	IC-MP.
5	Howerton, James O. (Howerton Coal Co.)	Howerton	1195	142	Marion, Ill.	IC-MP.
5	Mitchell Coal Co. (Ed Mitchell & H. Lantrip)	Mitchell	1199	142	Marion, Ill.	IC-MP.
5	Moore & Son Coal Company	Moore & Son	1200	142	Marion, Ill.	IC-MP.
5	Moren Coal Company (R. M. Winters)	Moren	1201	142	Marion, Ill.	IC-MP.
5	New Prosperity Coal Company	New Prosperity	1412	142	Marion, Ill.	IC-MP.
5	Norris Coal Co. (Louis Norris)	Norris Coal Co.	1203	142	Marion, Ill.	IC-MP.
5	O. B. C. Coal Company (George Overby)	O. B. C.	1367	142	Marion, Ill.	IC-MP.
5	Oak Grove Coal Co. (James Palmer)	W. H. B.	1204	142	Marion, Ill.	IC-MP.
5	Orment & Chase (Cherry Hill Coal Co.)	Cherry Hill	1205	142	Marion, Ill.	IC-MP.
5	Pulley, Guy (Pulley Coal Co.)	Pulley	1212	142	Marion, Ill.	IC-MP.
5	Ramsey, Charles (Black Diamond Mine)	Chas. Ramsey	1227	142	Marion, Ill.	IC-MP.
5	Sims Coal Co. (Ray Sims)	Sims	1218	142	Marion, Ill.	IC-MP.
5	Steel Tipple Coal Co. (Claude Angel)	Steel Tipple	1222	142	Marion, Ill.	IC-MP.
5	Strobel, A. O.	A. O. Strobel	1223	142	Marion, Ill.	IC-MP.
5	Stump, C. C.	New Superior Coal Co.	1202	142	Marion, Ill.	IC-MP.
5	Sunny Brook Coal Company	Sunny Brook	1226	142	Marion, Ill.	IC-MP.
5	White Heat Coal Company (George Frame)	White Heat	1233	142	Marion, Ill.	IC-MP.
5	Wilkins, Arleigh (Spillertown Coal Co.)	New Spillertown	1414	142	Marion, Ill.	IC-MP.
5	Willow Spring Co. (C. H. McNeill)	Willow Spring	1234	142	Marion, Ill.	IC-MP.
5	Winning Coal Co. (W. T. Winning)	Green Valley	1235	142	Marion, Ill.	IC-MP.
5	Yearack Brothers (Frank Yearack)	Egyptian	1241	142	Marion, Ill.	IC-MP.

The f. o. b. mine prices for Mine Index Nos. 1171, 1183, 1176, 1178, 1179, 1305, 1184, 1216, 1185, 1236, 1188, 1190, 1232, 1192, 1221, 1193, 1195, 1199, 1200, 1201, 1412, 1203, 1367, 1204, 1205, 1212, 1227, 1218, 1222, 1223, 1202, 1226, 1233, 1414, 1234, 1238, 1241 shall be the same as the prices provided for the mines in Price Group 5 in Price Schedule No. 1 for District No. 10 for All Shipments Except Truck, for all size groups and for all uses and for shipment to all market areas; provided, however, that these prices apply f. o. b. transportation facilities at the McLaren Fuel Co.'s Preparation Plant, Marion, Illinois.

[F. R. Doc. 41-8812; Filed, November 25, 1941; 10:40 a. m.]

[Docket No. A-1057]

PETITION OF DISTRICT BOARD NO. 1 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 1

[Docket No. A-1057, Part II]

PETITION OF DISTRICT BOARD NO. 1 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE MIXING OF THE COALS OF MINE INDEX NOS. 890 AND 891, FOR THE ESTABLISHMENT OF AN ADDITIONAL RAIL LOADING POINT FOR THE COALS OF MINE INDEX NO. 1471 AND FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF MINE INDEX NOS. 2812, 885, 774 AND 894 IN DISTRICT NO. 1 FOR ALL SHIPMENTS EXCEPT TRUCK

MEMORANDUM OPINION AND ORDER SEVERING DOCKET NO. A-1057 PART II FROM DOCKET NO. A-1057, GRANTING, IN PART, TEMPORARY RELIEF IN DOCKET NO. A-1057 PART II AND NOTICE OF AND ORDER FOR HEARING IN DOCKET NO. A-1057 PART II

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, was filed with this Division in Docket No. A-1057, requesting the establishment of price classifications and minimum prices for the coals of certain mines in District No. 1.

As indicated in an Order issued in Docket No. A-1057, a reasonable showing of necessity has been made for the granting of the relief prayed for by petitioner, except with respect to the establishment of price classifications and minimum prices for the mixing of the coals of Mine Index Nos. 890 and 891, the establishment of an additional rail loading point for the coals of Mine Index No. 1471 and the establishment of price classifications and minimum prices for the coals of Mine Index Nos. 2812, 885, 774 and 894, for all shipments except truck.

While it appears that a reasonable showing of necessity has been made for the granting of temporary relief in the form of price classifications and minimum prices for the coals of Mine Index Nos. 2812, 885, 774 and 894, for all shipments except truck, as prayed for by the petitioner, the Director is of the opinion that the original petitioner has not set forth sufficient facts to warrant the establishment of price classifications and minimum prices, without a hearing, for the mixing of the coals of Mine Index Nos. 890 and 891, or for the establishment of an additional rail loading point for the coals of Mine Index No. 1471, for all shipments except truck.

Now, therefore, it is ordered, That the portion of Docket No. A-1057 relating to the establishment of price classifications and minimum prices for the mixing of the coals of Mine Index Nos. 890 and 891, for the establishment of an additional rail loading point for the coals of

Mine Index No. 1471, and for the establishment of price classifications and minimum prices for the coals of Mine Index Nos. 2812, 885, 774 and 894, for all shipments except truck, be, and it hereby is, severed from the remainder of Docket No. A-1057 and designated as Docket No. A-1057 Part II.

It is further ordered, That a hearing in Docket No. A-1057 Part II under the applicable provisions of said Act and the rules of the Division be held on November 17, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Floyd McGown or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby au-

thorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, setting forth the facts on the basis of which the

relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before November 12, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of intervenors or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the petition of District Board No. 1 for the establishment of price classifications and minimum prices for the mixing of the coals of Mine Index Nos. 890 and 891, for the establishment of an additional rail loading point for the coals of Mine Index No. 1471, and for the establishment of price classifications and

minimum prices for the coals of Mine Index Nos. 2812, 885, 774, and 894, in District No. 1, for all shipments except truck.

It is further ordered, That, pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith, the Schedule of Effective Minimum Prices for District No. 1, for All Shipments Except Truck, is supplemented to include the price classifications and minimum prices set forth in the temporary supplement annexed hereto and hereby made a part hereof.

Notice is hereby given that applications to stay, terminate or modify the temporary relief granted herein may be filed pursuant to the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937. Dated: October 20, 1941.

[SEAL] H. A. GRAY,
Director.

TEMPORARY SUPPLEMENT R

NOTE: The material contained in this Temporary Supplement R is to be read in the light of the classifications, prices, instructions exceptions and other provisions contained in Price Schedule No. 1 of this District and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

[Alphabetical listing of code members having railway loading facilities, showing price classification by size group numbers]

Mine index No.	Code member	Mine name	Sub-district No.	Seam	Shipping point	Railroad	Freight origin group No.	1	2	3	4	5
2812	Deslave, Donato	Spring Run	2	D	Woodville, Pa.	PS&N	118	H	H	H	J	J
885	Gruskin, Louis (L. Gruskin Mining Co.)	Gruskin	10	B	Kittanning, Pa.	P&S	79	H	H	H	J	J
774	Indian Head Fuel Co. (H. M. Young)	Layman	35	B	Indian Head, Pa.	B&O	100	(†)	(†)	(†)	F	F
894	Yanity Brothers (Casner Yinity)	Coy	23	E	Tearing Run Jct., Pa.	PRR	83	(†)	(†)	G	(†)	(†)

*Indicates coal in this size group previously classified and priced.

† Indicates no classifications effective for these size groups.

[P. R. Doc. 41-8813; Filed, November 25, 1941; 10:40 a. m.]

[Docket No. B-129]

IN THE MATTER OF R. B. MORPHEW, CODE
MEMBER, DEFENDANT

NOTICE OF AND ORDER FOR HEARING

A complaint dated October 24, 1941, pursuant to the provisions of sections 4 II(j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on October 29, 1941, by Bituminous Coal Producers Board for District 13, a District Board, complainant, with the Bituminous Coal Division alleging willful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder;

It is ordered, That a hearing in respect to the subject matter of such complaint be held on January 16, 1942, at 10 a. m., at a hearing room of the Bituminous Coal Division at the Tutwiler Hotel, Birmingham, Alabama.

It is further ordered, That Travis Williams or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendant and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under § 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given, that answer to the complaint must be filed with the Bituminous Coal Division at its Washington office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified, that the hearing in the above-entitled matter

and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging willful violation by the above-named defendant of the Bituminous Coal Code or rules and regulations thereunder as follows: That the defendant, R. B. Morphey, of Natural Bridge, Alabama, whose code membership became effective as of September 27, 1939, operator of the Oak Leaf Mine, Mine Index No. 139, located in Subdistrict 2 of District No. 13, Winston County, Alabama, during the month of July 1941, sold to J. O. Springer, trading as the Sheffield Coal Company, Sheffield, Alabama, substantial quantities of mine run and steam (1½ x 0") bituminous coal produced at said mine at \$2.25 per net ton f. o. b. the mine for said mine run coal and \$1.25 per net ton f. o. b. said mine for said steam coal. The run of mine coal referred to hereinabove was classified as Size Group No. 13 as set forth in the Schedule of Effective Minimum Prices for District No. 13 for Truck Shipment and priced at \$2.90 per net ton f. o. b. the mine; and the 1½" x 0" steam coal referred to hereinabove was classified as Size Group No. 23 as set forth in the said Schedule and priced at \$2.20 per net ton f. o. b. the mine, therefore, the above transactions constituted sales of bituminous coal below the minimum price established therefor in violation of section 4 Part II (e) of the Act and Part II (e) of the Code.

Dated: November 22, 1941.

[SEAL]

H. A. GRAY,
Director.[F. R. Doc. 41-8856; Filed, November 26, 1941;
10:33 a. m.]

[Docket No. B-64]

IN THE MATTER OF LEFT FORK FUEL COM-
PANY, INCORPORATED, CODE MEMBER,
DEFENDANT

NOTICE OF AND ORDER FOR HEARING

A complaint dated October 2, 1941, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on October 7, 1941, by Bituminous Coal Producers Board for District 8, a district board, complainant, with the Bituminous Coal Division alleging willful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder;

It is ordered, That a hearing in respect to the subject matter of such complaint be held on January 21, 1942, at 10 a. m., at a hearing room of the Bituminous Coal Division at the Daniel Boone Hotel, Charleston, West Virginia.

It is further ordered, That Charles S. Mitchell or any other officer or officers

of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendant and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under § 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given that answer to the complaint must be filed with the Bituminous Coal Division at its Washington office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified that the hearing in the above-entitled matter and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging willful violation by the above-named defendant whose address is East Lynn, West Virginia, of the Bituminous Coal Code or Rules and Regulations thereunder as follows: section 4 II (e) of the Act and Part II (e) of the Code by selling and delivering during May and June, 1941, to the Ann Arbor Railroad Company, Norman B. Petcairn and Frank C. Nicodemus, Jr., Receivers, for use as railway locomotive fuel, approximately 450 tons of Size Group 7 or 5" x 2" egg coal produced by the de-

fendant at the defendant's mine located in Wayne County, West Virginia and designated as Mine Index No. 2431, at a price of \$1.85 per net ton f. o. b. said mine, the effective minimum price established for this grade of coal at the time of sale being \$2.30 per net ton f. o. b. said mine.

Dated: November 22, 1941.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 41-8857; Filed, November 26, 1941;
10:33 a. m.]

[Docket No. B-66]

IN THE MATTER OF BEN SHELTON, CODE
MEMBER, DEFENDANT

NOTICE OF AND ORDER FOR HEARING

A complaint dated September 16, 1941, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on September 24, 1941, by Bituminous Coal Producers Board for District No. 8, a district board, complainant, with the Bituminous Coal Division alleging wilful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder;

It is ordered, That a hearing in respect to the subject matter of such complaint be held on January 21, 1942, at 10 a. m., at a hearing room of the Bituminous Coal Division at the Daniel Boone Hotel, Charleston, West Virginia;

It is further ordered, That Charles S. Mitchell or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendant and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under § 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to Sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days

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before the date herein set for hearing on the complaint.

Notice is hereby given that answer to the complaint must be filed with the Bituminous Coal Division at its Washington Office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified that the hearing in the above entitled matter and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging wilful violation by the above named defendant of the Bituminous Coal Code or rules and regulations thereunder as follows: By selling on or about November 13, 1940, to County of Nicholas, West Virginia, approximately 4 tons of High Volatile Mine Run Coal, Size Group 6, produced at defendant's mine, Mine Index No. 1462, District No. 8, at a price of \$2.20 per net ton delivered to the County Court House, Summersville, West Virginia, whereas the applicable minimum price established for such coal is \$2.20 per net ton f. o. b. the mine as contained in the Schedule of Effective Minimum Prices for District No. 8 for Truck Shipments, plus an amount at least equal, as nearly as practicable, to the actual transportation charge of approximately 15 cents per net ton incurred by the defendant in transporting such coal from said mine to the County Court House, Summersville, West Virginia.

Dated: November 22, 1941.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 41-8858; Filed, November 26, 1941;
10:35 a. m.]

[Docket No. B-22]

IN THE MATTER OF NINA C. ENGLER, AN INDIVIDUAL, DOING BUSINESS AS ENGLER COAL AND COKE COMPANY, REGISTERED DISTRIBUTOR, REGISTRATION No. 2774, RESPONDENT

NOTICE OF AND ORDER FOR HEARING

1. The Bituminous Coal Division finds it necessary in the proper administration of the Bituminous Coal Act of 1937 (the "Act") to determine:

(a) Whether or not Nina C. Engler, an individual doing business as Engler Coal

and Coke Company, a registered distributor, Registration No. 2774, whose address is 503 Omaha Loan Building, 15th and Dodge Street, Omaha, Nebraska, has violated any of the provisions of the Act, the Marketing Rules and Regulations, the Rules and Regulations for Registration of Distributors and the Distributor's Agreement (the "Agreement"), executed on December 16, 1940, by respondent, pursuant to the Order of the Division dated June 19, 1940, in General Docket No. 12; and

(b) Whether or not the registration of said distributor should be revoked or suspended or other appropriate penalties should be imposed;

and for said purposes gives notice that the Division has information to the effect that:

2. Respondent, acting in the capacity of subsales agent, pursuant to a subsales agency agreement filed with the Division December 11, 1940, with Ed Sweeney (doing business as Tripple "C" Coal Company), code member principal, operating the Sweeney Mine, Mine Index No. 188, located in La Flore County, Oklahoma, in District No. 14, during the period from January 2, 1941, to January 21, 1941, both dates inclusive, sold on behalf of said code member approximately 44.20 net tons of 2½" lump coal produced at the aforesaid mine, to the Crescent Coal Company, Omaha, Nebraska, approximately 43.70 net tons of 2½" lump coal produced at the aforesaid mine, to the American Coal Company, Omaha, Nebraska, and approximately 43.75 net tons of coal produced at the aforesaid mine to the Aksarben Coal Company, Omaha, Nebraska. Respondent accepted and retained commissions on the above transactions in addition to the 9 per cent commission stipulated in said agreement as follows: 15 cents per net ton on the coal sold to the Crescent Coal Company, and 10 cents per net ton on the coal sold to the American Coal Company and the Aksarben Coal Company. The excessive commissions were paid to respondent by said code member, although a certified copy of an agreement modifying the stipulated commission in said sales agency agreement was not filed with the Division as required by Rule 4 (B) of section II of the Marketing Rules and Regulations, and the excessive commissions were, therefore, paid in violation of Rule 9 (a) of section II of the Marketing Rules and Regulations. Respondent, in accepting and retaining said excessive commissions, participated in a violation of Rule 9 (a) of section II of the Marketing Rules and Regulations, and thereby violated paragraph (e) of the agreement referred to in paragraph 1 (a) hereof.

It is therefore ordered, That a hearing pursuant to § 304.14 of the Rules and Regulations for the Registration of Distributors, to determine whether the reg-

istration of said distributor should be revoked or suspended, or other appropriate penalties be imposed, be held on January 14, 1942, at 10 a. m. at the County Court Room, Omaha, Nebraska.

It is further ordered, That D. C. McCurtain or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said respondent and to all other parties herein and to all persons and entities having an interest in such proceeding.

Notice is hereby given that answer to the charges contained herein must be filed with the Bituminous Coal Division at its Washington Office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the respondent; and that any respondent failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the charges and to have consented to the entry of an appropriate order on the basis of the facts.

All persons are hereby notified that the hearing in the above-entitled matter and orders entered therein may concern, in addition to the matters specifically alleged herein, other matters incidental and related thereto, whether raised by amendment, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

Dated: November 22, 1941.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 41-8859; Filed, November 26, 1941;
10:35 a. m.]

[Docket No. B-56]

IN THE MATTER OF JOHN B. RAVIZZA, CODE
MEMBER, DEFENDANT

NOTICE OF AND ORDER FOR HEARING

A complaint dated September 6, 1941, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on September 19, 1941, by Bituminous Coal

Producers' Board for District No. 19, a district board, complainant, with the Bituminous Coal Division alleging willful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder;

It is ordered, That a hearing in respect to the subject matter of such complaint be held on January 23, 1942, at 10 a. m., at a hearing room of the Bituminous Coal Division at the County Court House, Rawlins, Wyoming.

It is further ordered, That D. C. McCurtain or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendant and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under § 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given, that answer to the complaint must be filed with the Bituminous Coal Division at its Washington office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified, that the hearing in the above-entitled matter and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging willful violation by the above-named defendant of the Bituminous Coal Code or rules and regulations thereunder as follows: That the defendant, John B. Ravizza, of 437 State Street, Rawlins, Wyoming, during the period October 3, 1940, to January 28, 1941, sold approximately 266 tons of slack coal, Size Groups 15 and 16 produced at his Pine Bed Mine (Mine Index No. 181) located in Carbon County, Wyoming, District No. 19, to the Wyoming State Penitentiary at Rawlins, Wyoming, at a price of \$1.25 per ton f. o. b. the mine for truck delivery whereas the effective minimum price for said coal was \$1.50 per ton f. o. b. the mine less one cent per ton as set forth in the Schedule of Effective Minimum Prices for District No. 19 for Truck Shipments, and Price Instruction and Exception No. 12 as contained in said Schedule.

Dated: November 22, 1941.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 41-8860; Filed, November 26, 1941;
10:35 a. m.]

[Docket No. B-79]

IN THE MATTER OF WHITELEY & BUCKALEW,
INC., REGISTERED DISTRIBUTOR, REGIS-
TRATION NO. 9675, RESPONDENT

NOTICE OF AND ORDER FOR HEARING

1. The Bituminous Coal Division (the "Division") finds it necessary, in the proper administration of the Bituminous Coal Act of 1937, (the "Act") and the Bituminous Coal Code (the "Code") promulgated thereunder, to determine

(a) whether or not Whiteley & Buckalew, Inc., Registered Distributor, Registration No. 9675, whose address is 19 Rector Street, New York, New York, the respondent in the above-entitled matter, has violated any provisions of the Act, the Code, any orders or regulations of the Division, including the Marketing Rules and Regulations, the Rules and Regulations for the Registration of Distributors, and the Distributor's Agreement (the "Agreement") executed July 25, 1940, by the respondent, pursuant to Order of the Bituminous Coal Division, dated June 19, 1940, in General Docket No. 12; and

(b) whether or not the registration of said distributor should be revoked or suspended or other appropriate penalties should be imposed;

and for said purposes gives notice that the Division has information to the effect that

2. Respondent, Whiteley & Buckalew, Inc., is a corporation incorporated in the State of New York in the year 1936.

3. Respondent, acting in the capacity of sub-sales agent, pursuant to an agreement dated October 2, 1940, and modified on April 2, 1941, with the Pursglove Coal Mining Company, code member prin-

cipal, operating The Pursglove No. 2 and Pursglove No. 15 Mines, Mine Index Nos. 120, and 119-121 respectively, located in Monongalia County, West Virginia, in District No. 3, during the period from October 9, 1940, to August 12, 1941, both dates inclusive, sold in behalf of said code member, 53 cars or approximately 2,510.99 net tons of various sizes of coal produced at the aforesaid mines. Respondent accepted and retained commissions in the aggregate amount of \$593.30 on said transactions, which amount was \$228.45 in excess of \$364.85, the aggregate amount of the commissions to which respondent was entitled on said transactions as stipulated in the sales agency agreement. Respondent in accepting and retaining said excessive commissions participated in transactions in violation of Rule 9 (a) of section II of the Marketing Rules and Regulations and thereby violated paragraph (e) of the Agreement referred to in paragraph 1 (a) hereof.

4. Respondent acting in the capacity of sales agent, pursuant to an agreement dated September 30, 1940, with Reitz Coal Company, code member principal, operating the Reitz No. 2, Reitz No. 4, Reitz No. 5 and Reitz No. 8 Mines, Mine Index Nos. 420, 423, 424 and 425, respectively, located in Somerset County, Pennsylvania, in District No. 1, during the period from October 30, 1940, to August 8, 1941, both dates inclusive, sold in behalf of said code member 32 cars or approximately 1639.95 net tons of various sizes of coal produced at the aforesaid mines. Respondent accepted and retained commissions in the aggregate amount of \$489.45 on said transactions, which amount was \$229.14 in excess of \$260.31, the aggregate amount of the commissions to which Respondent was entitled on said transactions as stipulated in the sales agency agreement. Respondent in accepting and retaining said excessive commissions, participated in transactions in violation of Rule 9 (a) of section II of the Marketing Rules and Regulations, and thereby violated paragraph (e) of the Agreement referred to in paragraph 1 (a) hereof.

5. Respondent acting in the capacity of sales agent, pursuant to an agreement dated October 1, 1940, with Canyon Coal & Coke Company, code member principal, operating the Canyon Coal & Coke Co. Mine, Mine Index No. 32, located in Monongalia County, West Virginia, in District No. 3, during the period from January 6, 1941, to January 20, 1941, both dates inclusive, sold in behalf of said code member 3 cars or approximately 141.05 net tons of 1 1/4" x 5/8" pea coal, Size Group No. 5, produced at the aforesaid mine. Respondent accepted and retained commissions in the aggregate amount of \$35.26 on said transactions, which amount was \$7.05 in excess of \$28.21, the aggregate amount of the commissions to which Respondent was entitled on said transactions as stipulated in the sales agency agreement between Respondent and said code member.

Respondent in accepting and retaining said excessive commissions participated in transactions in violation of Rule 9 (a) of section II of the Marketing Rules and Regulations and thereby violated paragraph (e) of the Agreement referred to in paragraph 1 (a) hereof.

It is, therefore, ordered, That a hearing pursuant to § 304.14 of the Rules and Regulations for the Registration of Distributors, to determine whether the registration of said distributor should be revoked or suspended, or other appropriate penalties be imposed, be held on January 13, 1942, at 10 a. m. in a hearing room of the Bituminous Coal Division at Room D, Washington Hotel, Washington, D. C.

It is further ordered, That Scott A. Dahlquist or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said respondent, and to all other parties herein and to all persons and entities having an interest in such proceeding.

Notice is hereby given that answer to the charges contained herein must be filed with the Bituminous Coal Division at its Washington Office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the respondent; and that any respondent failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted said charges and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified that the hearing in the above-entitled matter and orders entered therein may concern, in addition to the matters specifically alleged herein, other matters incidental and related thereto, whether raised by amendment, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

Dated: November 22, 1941.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 41-8861; Filed November 26 1941; 10:36 a. m.]

[Docket No. B-73]

IN THE MATTER OF AUSTIN GAP COAL CO.,
ALSO KNOWN AS AUSTIN GAP COAL CO.,
INC., CODE MEMBER, DEFENDANT

NOTICE OF AND ORDER FOR HEARING

A complaint dated October 3, 1941, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on October 8, 1941, by Bituminous Coal Producers Board for District No. 8, a District Board, complainant, with the Bituminous Coal Division alleging willful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder;

It is ordered, That a hearing in respect to the subject matter of such complaint be held on January 28, 1942, at 10 a. m., at a hearing room of the Bituminous Coal Division at the County Court House, Abingdon, Virginia.

It is further ordered, That Travis Williams or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendant and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under § 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given, that answer to the complaint must be filed with the Bituminous Coal Division at its Washington office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an

appropriate order on the basis of the facts alleged.

All persons are hereby notified, that the hearing in the above-entitled matter and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging willful violation by the above-named defendant of the Bituminous Coal Code or rules and regulations thereunder as follows: That the defendant, whose address is Dante, Virginia, sold coal produced at its Austin Gap Mine, Mine Index No. 2671, located near Dante, Russell County, Virginia, in Subdistrict 6 of District No. 8, as follows:

(a) on or about January 21, 1941, to Paul Warren, Bristol, Virginia, approximately 5 tons of lump over 2" coal, Size Group 1, at an f. o. b. mine price of \$2.15 per net ton for which the effective minimum f. o. b. mine price was \$2.65 per net ton as shown in the Schedule of Effective Minimum Prices for District No. 8 for Truck Shipments.

(b) on or about January 21, 1941, to Morris Freezer & Company, Wytheville, Virginia, approximately 6 tons of stoker coal, Size Group 5, at an f. o. b. mine price of \$1.55 per net ton for which the effective minimum f. o. b. mine price was \$2.15 per net ton.

(c) on or about March 26, 1941, to Carson King, Hamlin, Virginia, approximately 5.92 tons of lump over 2" coal, Size Group 1, at an f. o. b. mine price of approximately \$2.01 per net ton for which the effective minimum f. o. b. mine price was \$2.65 per net ton.

(d) on or about March 26, 1941, to O. J. Kiser, Hamlin, Virginia, approximately 5.3 tons of lump over 2" coal, Size Group 1, at an f. o. b. mine price of \$2.00 per net ton for which the effective minimum f. o. b. mine price was \$2.65 per net ton.

(e) on or about March 26, 1941, to Front Street Service Station, Bristol, Virginia, approximately 6.37 tons of lump over 2" coal, Size Group 1, at an f. o. b. mine price of approximately \$2.29 per net ton for which the effective minimum f. o. b. mine price was \$2.65 per net ton.

Dated: November 22, 1941.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 41-8862; Filed, November 26, 1941;
10:36 a. m.]

[Docket No. B-52]

IN THE MATTER OF A. E. WHITTINGTON,
CODE MEMBER, DEFENDANT

NOTICE OF AND ORDER FOR HEARING

A complaint dated September 18, 1941, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous

Coal Act of 1937, having been duly filed on September 24, 1941, by Bituminous Coal Producers Board No. 8, a district board, complainant, with the Bituminous Coal Division alleging willful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder;

It is ordered, That a hearing in respect to the subject matter of such complaint be held on January 21, 1942, at 10 a. m., at a hearing room of the Bituminous Coal Division at the Daniel Boone Hotel, Charleston, W. Va.

It is further ordered, That Charles S. Mitchell or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendant and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under § 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given, That answer to the complaint must be filed with the Bituminous Coal Division at its Washington office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified, That the hearing in the above-entitled matter and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging willful violation by the above-named defendant of the Bituminous Coal Code or rules and regulations thereunder as follows: That the defendant, whose address is R. F. D. #5, Charleston, West Virginia, sold and delivered by truck on various dates between April 1, 1941, and May 1, 1941, to the Belle Alkali Company, Belle, West Virginia, coal produced at his Whittington Mine, (Mine Index No. 1428), located in Kanawha County, West Virginia, Subdistrict 4 of District No. 8, as follows:

(a) approximately 30 tons of High Volatile Size Group 6 or Straight Mine Run coal at a delivered price of \$2.20 per net ton, whereas the effective minimum price for such coal for truck shipment was \$2.20 per net ton f. o. b. the Whittington Mine plus at least the actual cost of transportation, being approximately twenty (20) cents per net ton, thereof to the Belle Alkali Company, Belle, West Virginia, as set forth in the Schedule of Effective Minimum Prices for District No. 8 for Truck Shipment and Price Instruction 5 thereto as amended in Supplement No. 1 of said Schedule.

(b) approximately 6 tons of High Volatile Size Group 7 or 2" and under slack coal at a delivered price of \$1.65 per net ton, whereas the effective minimum price for such coal for truck shipment was \$1.65 per net ton f. o. b. the Whittington Mine plus at least the actual cost of transportation, being approximately twenty (20) cents per net ton, thereof to the Belle Alkali Company, Belle, West Virginia, as set forth in the Schedule of Effective Minimum Prices for District No. 8 for Truck Shipment and Price Instruction 5 thereto as amended in Supplement No. 1 of said Schedule.

Dated: November 22, 1941.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 41-8863; Filed, November 26, 1941;
10:36 a. m.]

[Docket No. B-122]

IN THE MATTER OF BARNEY SANDERS, CODE
MEMBER, DEFENDANT

NOTICE OF AND ORDER FOR HEARING

A complaint dated September 24, 1941, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on September 24, 1941, by Bituminous Coal Producers Board for District No. 8, a district board, complainant, with the Bituminous Coal Division alleging willful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder;

It is ordered, That a hearing in respect to the subject matter of such complaint be held on January 21, 1942, at 10 a. m., at a hearing room of the Bituminous Coal Division at the Daniel Boone Hotel, Charleston, West Virginia.

It is further ordered, That Charles S. Mitchell or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendant and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under § 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given that answer to the complaint must be filed with the Bituminous Coal Division at its Washington office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified that the hearing in the above-entitled matter and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging willful violation by the above-named defendant of the Bituminous Coal Code or rules and regulations thereunder as follows: That the defendant, whose address is East Lynn, West Virginia, sold, delivered, and offered to sell on various dates between October 1, 1940, and December 1, 1940, to the Owens Illinois Glass Company of Huntington, West Virginia, approximately 640 tons of High Volatile Size Group 5 or nut 2" and Under coal produced by the

defendant in District 8 from the defendant's mine designated as Mine Index No. 2430 located in Wayne County, West Virginia, such sales, deliveries and offers to sell being at a price of \$1.45 per net ton f. o. b. the said mine, all contrary to the provisions of the Bituminous Coal Act of 1937 establishing a minimum price for each such sale, delivery, and offer to sell of \$1.85 per net ton f. o. b. the mine.

Dated: November 22, 1941.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 41-8864; Filed, November 26, 1941;
10:37 a. m.]

[Docket No. B-125]

IN THE MATTER OF J. T. DANIELS, A CODE
MEMBER, DEFENDANT

NOTICE OF AND ORDER FOR HEARING

A complaint dated September 17, 1941, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on September 24, 1941, by Bituminous Coal Producers Board for District No. 8, a District Board, complainant, with the Bituminous Coal Division alleging willful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder;

It is ordered, That a hearing in respect to the subject matter of such complaint be held on January 19, 1942, at 10 a. m., at a hearing room of the Bituminous Coal Division at the Federal Building, Catlettsburg, Kentucky.

It is further ordered, That Charles S. Mitchell or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendant and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under § 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days

before the date herein set for hearing on the complaint.

Notice is hereby given that answer to the complaint must be filed with the Bituminous Coal Division at its Washington office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified that the hearing in the above-entitled matter and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging willful violation by the above-named defendant of the Bituminous Coal Code or rules and regulations thereunder as follows:

(a) that defendant, J. T. Daniels, whose address is Jettie, Kentucky, on or about July 17, July 18, and July 21, 1941, sold and delivered to Shelby Steam Coal Company, Shelbyana, Kentucky, approximately 18 tons of high volatile mine run coal produced at his Daniels Mine, Mine Index No. 646, located in Pike County, Kentucky in District No. 8, at a price of \$2.00 per net ton f. o. b. railroad cars at Shelbyana, Kentucky, whereas the effective minimum price established for such coal was, and is, \$2.10 per net ton f. o. b. the mine as contained in the Schedule of Effective Minimum Prices for District No. 8 for Truck Shipments, and the defendant failed to add to the applicable minimum f. o. b. mine price, an amount, equal as nearly as practicable to the actual transportation charges, handling charges, or incidental charges of whatsoever kind or character (exclusive of customary costs of mine operation), from the transportation facilities at the mine to the point from which all such charges were assumed and directly paid by the purchaser, as contained in Price Instruction No. 5 of supplement No. 1 to the Schedule of Effective Minimum Prices for District No. 8 for Truck Shipments, the actual transportation charges from the defendant's mine to said railroad cars being approximately 15 cents per ton.

(b) The transactions set forth above in paragraph (a) are in violation of section 4 II (e) and (g) of the Act and Part II (e) and (g) of the Code.

Dated: Nov. 22, 1941.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 41-8865; Filed, November 26, 1941;
10:37 a. m.]

Bureau of Reclamation.

FIRST FORM RECLAMATION WITHDRAWAL,
MANCOS PROJECT, COLORADO

JULY 11, 1941.

THE SECRETARY OF THE INTERIOR.

SIR: In accordance with the authority vested in you by the Act of June 28, 1934 (48 Stat. 1269) as amended, it is recommended that the following described lands be withdrawn from public entry under the first form withdrawal, as provided in Section 10, Act of October 14, 1940 (54 Stat. 1119) and that Departmental order of April 8, 1935, including the said lands in Grazing District No. 4, Colorado, be modified and made subject to the withdrawal effected by this order.

MANCOS PROJECT, COLORADO

New Mexico Principal Meridian

T. 36 N., R. 13 W.,
Sec. 19, SE $\frac{1}{4}$;
Sec. 20, SW $\frac{1}{4}$;
Sec. 29, N $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 30, NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
T. 35 N., R. 14 W., Sec. 2, S $\frac{1}{2}$ NW $\frac{1}{4}$.

Respectfully,

H. W. BASHORE,
Acting Commissioner.

I concur: October 2, 1941.

R. H. RUTLEDGE,
Director, Grazing Service.

I concur: September 30, 1941.

FRED W. JOHNSON,
Commissioner, General Land
Office.

The foregoing recommendation is hereby approved, as recommended, and the Commissioner of the General Land Office will cause the records of his office and the local land office to be noted accordingly.

JOHN J. DEMPSEY,
Under Secretary.

NOVEMBER 10, 1941.

[F. R. Doc. 41-8848; Filed, November 26, 1941;
9:24 a. m.]

FIRST FORM RECLAMATION WITHDRAWAL
MANCOS PROJECT, COLORADO

JULY 11, 1941.

THE SECRETARY OF THE INTERIOR.

SIR: It is recommended that the following described lands be withdrawn from public entry under the first form withdrawal as provided in Section 10, Act of October 14, 1940 (54 Stat. 1119):

MANCOS PROJECT, COLORADO

New Mexico Principal Meridian

T. 37 N., R. 12 W.,
Sec. 17, SW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 18, SE $\frac{1}{4}$;
Sec. 19, N $\frac{1}{2}$;
Sec. 20, NW $\frac{1}{4}$.

Respectfully,

H. W. BASHORE,
Acting Commissioner.

I concur: September 30, 1941.

FRED W. JOHNSON,
Commissioner, General Land
Office.

The foregoing recommendation is hereby approved, as recommended, and the Commissioner of the General Land Office will cause the records of his office and the local land office to be noted accordingly.

JOHN J. DEMPSEY,
Under Secretary.

NOVEMBER 10, 1941.

[F. R. Doc. 41-8849; Filed November 26, 1941;
9:24 a. m.]

FIRST FORM RECLAMATION WITHDRAWAL,
PAONIA PROJECT, COLORADO

OCTOBER 15, 1941.

THE SECRETARY OF THE INTERIOR.

SIR: In accordance with the authority vested in you by the Act of June 28, 1934 (48 Stat., 1269), as amended, it is recommended that the following described lands be withdrawn from public entry under the first form withdrawal, as provided in Section 3, Act of June 17, 1902 (32 Stat., 388), and that Departmental Order of April 8, 1935, establishing Grazing District No. 3, Colorado, be modified and made subject to the reclamation withdrawal effected by this order.

PAONIA PROJECT, COLORADO, SPRING CREEK
RESERVOIR SITE

Sixth Principal Meridian

T. 12 S., R. 89 W., Sec. 8, W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$
NW $\frac{1}{4}$.

Respectfully,

H. W. BASHORE,
Acting Commissioner.

I concur: November 10, 1941.

ARCHIE D. RYAN,
Acting Director, Grazing Service.

I concur: October 27, 1941.

FRED W. JOHNSON,
Commissioner, General Land
Office.

The foregoing recommendation is hereby approved, as recommended, and the Commissioner of the General Land Office will cause the records of his office and the local land office to be noted accordingly.

JOHN J. DEMPSEY,
Under Secretary.

NOVEMBER 13, 1941.

[F. R. Doc. 41-8850; Filed, November 26, 1941;
9:24 a. m.]

FIRST FORM RECLAMATION WITHDRAWAL
PINE FLAT RESERVOIR SITE, CALIFORNIA

OCTOBER 28, 1941.

THE SECRETARY OF THE INTERIOR.

SIR: It is recommended that the following described lands, excepting any

tract the title of which has passed out of the United States, be withdrawn from public entry under the first form, as provided by Section 3, Act of June 17, 1902 (32 Stat. 388).

PINE FLAT RESERVOIR SITE

Mount Diablo Meridian, California

Township 12 South, Range 25 East,
Sec. 3, Lot 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 4, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 6, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 7, NE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$,
SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 8, W $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 9, SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 10, E $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 14, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 15, S $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 16, N $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 17, SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 18, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 19, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Lot 4;
Sec. 20, NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 21, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 23, NW $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 24, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 26, N $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 27, NE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 28, N $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$,
SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 29, NE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$,
NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 30, SE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Lots 3, 4;
Sec. 31, NE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$,
NE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 32, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ N $\frac{1}{2}$.

Respectfully,

H. W. BASHORE,
Acting Commissioner.

I concur: November 6, 1941.

JOEL DAVID WOLFSOHN,
Acting Commissioner, General
Land Office.

The foregoing recommendation is hereby approved, as recommended, and the Commissioner of the General Land Office will cause the records of his office and the local land office to be noted accordingly.

JOHN J. DEMPSEY,
Under Secretary.

NOVEMBER 18, 1941.

[F. R. Doc. 41-8851; Filed, November 26, 1941;
9:24 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF GRANTING OF EXCEPTION PUR-
SUANT TO THE RECORD KEEPING REGU-
LATIONS

Notice is hereby given that pursuant to § 516.18 of the Record Keeping Regulations, Part 516, the Administrator of the Wage and Hour Division has granted the Nehi Company of Owensboro, Kentucky, Owensboro, Kentucky, relief from the necessity of preserving their customer orders, invoices and bills of lading to customers for two years as required by § 516.15, paragraph (b), on condition that the Company continues to record the names and addresses of their customers in the "Consecutive Order Book"

in accordance with § 516.15, paragraph (b).

The authority is subject to voidance for misrepresentation and revocation for cause.

Signed at Washington, D. C. this 25th day of November 1941.

PHILIP B. FLEMING,
Administrator.

[F. R. Doc. 41-8889; Filed, November 26, 1941;
11:56 a. m.]

NOTICE OF GRANTING OF EXCEPTION PURSUANT TO THE RECORD KEEPING REGULATIONS

Notice is hereby given that pursuant to § 516.18 of the Record Keeping Regulations, Part 516, the Administrator of the Wage and Hour Division has granted Cluett, Peabody & Company, Inc., Troy, New York, relief from the necessity of preserving their customer orders, invoices and bills of lading to customers for two years as required by Section 516.15, paragraph (b).

The authority is subject to voidance for misrepresentation and revocation for cause.

Signed at Washington, D. C., this 25th day of November 1941.

PHILIP B. FLEMING,
Administrator.

[F. R. Doc. 41-8890; Filed, November 26, 1941;
11:58 a. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS UNDER THE FAIR LABOR STANDARDS ACT OF 1938.

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum rate applicable under section 6 of the Act are issued under section 14 thereof and § 522.5(b) of the Regulations issued thereunder (August 16, 1940, 5 F.R. 2862) to the employers listed below effective November 27, 1941.

The employment of learners under these Certificates is limited to the terms and conditions as designated opposite the employer's name. These Certificates are issued upon the employers' representations that experienced workers for the learner occupations are not available for employment and that they are actually in need of learners at sub-minimum rates in order to prevent curtailment of opportunities for employment. The Certificates may be cancelled in the manner provided for in the Regulations and as indicated on the Certificate. Any person aggrieved by the issuance of these Certificates may seek a review or reconsideration thereof.

NAME, AND ADDRESS OF FIRM, PRODUCT, NUMBER OF LEARNERS, LEARNING PERIOD, LEARNER WAGE, LEARNER OCCUPATIONS, EXPIRATION DATE

Boston Leather Specialties, Inc., 210 Broadway, Everett, Massachusetts; Au-

tomotive Accessories and Baby Necessities; 3 learners; 4 weeks for any one learner; 25 cents per hour; Filler; February 6, 1942.

S. Heinemann, 816 Front Street, Newport, Arkansas; Buttons; 5 learners; 8 weeks for any one learner; 25 cents per hour; Button Blank Cutter; January 29, 1942. (This certificate effective November 20, 1941, instead of September 20, 1941 as erroneously recorded in FEDERAL REGISTER—Reference 6 F.R.—5904.)

Louisville Lamp Company, Louisville, Kentucky; Lamp Shades; 10 learners; 320 hours for any one learner; 35 cents per hour; Hand Sewing; January 31, 1942. (This certificate effective November 20, 1941, instead of September 20, 1941 as erroneously recorded in FEDERAL REGISTER—Reference 6 F.R.—5904.)

Oxford Cabinet Company, Oxford, Pennsylvania; Furniture; 6 learners; 6 weeks for any one learner; 30 cents per hour; Lumber grader, Cabinet assembler, Sander, Hinger; January 8, 1942.

Oxford Cabinet Company, Oxford, Pennsylvania; Furniture; 6 learners; 6 weeks for any one learner; 30 cents per hour; Wood working machine operator; Paint sprayer; January 22, 1942.

Oxford Furniture Company, Oxford, Pennsylvania; Furniture; 4 learners; 6 weeks for any one learner; 30 cents per hour; Paint Sprayer, Wood working machine operator, Sink Builder; January 22, 1942.

Oxford Furniture Company, Oxford, Pennsylvania; Furniture; 16 learners; 4 weeks for any one learner; 30 cents per hour; Assembler, Sander, Stripper, Upholsterer, Hinger; January 8, 1942.

Signed at Washington, D. C., this 26th day of November 1941.

MERLE D. VINCENT,
Authorized Representative
of the Administrator.

[F. R. Doc. 41-8891; Filed, November 26, 1941;
11:58 a. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under section 6 of the Act are issued under section 14 thereof, Part 522 of the Regulations issued thereunder (August 16, 1940, 5 F.R. 2862) and the Determination and Order or Regulation listed below and published in the FEDERAL REGISTER as here stated.

Apparel Learner Regulations, September 7, 1940 (5 F.R. 3591).

Single Pants, Shirts, and Allied Garments and Women's Apparel Industries, September 23, 1941 (6 F.R. 4839).

Artificial Flowers and Feathers Learner Regulations, October 24, 1940 (5 F.R. 4203).

Glove Findings and Determination of February 20, 1940, as amended by Ad-

ministrative Order of September 20, 1940 (5 F.R. 3748).

Hosiery Learner Regulations, September 4, 1940 (5 F.R. 3530).

Independent Telephone Learner Regulations, September 27, 1940 (5 F.R. 3829).

Knitted Wear Learner Regulations, October 10, 1940 (5 F.R. 3982).

Millinery Learner Regulations, Custom Made and Popular Priced, August 29, 1940 (5 F.R. 3392, 3393).

Textile Learner Regulations, May 16, 1941 (6 F.R. 2446).

Woolen Learner Regulations, October 30, 1940 (5 F.R. 4302).

The employment of learners under these Certificates is limited to the terms and conditions as to the occupations, learning periods, minimum wage rates, et cetera, specified in the Determination and Order or Regulation for the industry designated above and indicated opposite the employer's name. These Certificates become effective November 27, 1941. The Certificates may be cancelled in the manner provided in the Regulations and as indicated in the Certificates. Any person aggrieved by the issuance of any of these Certificates may seek a review or reconsideration thereof.

NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS AND EXPIRATION DATE

Apparel

Acme Pad Corporation, 516 West Baltimore Street, Baltimore, Maryland; Shoulder Pads; 5 learners (T); November 27, 1942.

Borman Sportswear, Inc., 6-10 N. William Street, Johnstown, New York; Jack-ets; 5 percent (T); November 27, 1942.

Chicago Rubber Clothing Company, 1501 Albert Street, Racine, Wisconsin; Rainwear, Sportswear, Sport Shirts; 10 percent (T); May 27, 1942.

Hansley Mills, Inc., South Main Street, Paris, Kentucky; Men's & Boys' Athletic Underwear; 40 learners (E); May 27, 1942.

Ralph W. Hayden, 420 South Main Street, Rockford, Illinois; Neckties; 2 learners (T); March 12, 1942.

Charles H. Levy Company, Inc., 142 Chartres, New Orleans, Louisiana; Neckties; 5 learners (T); November 27, 1942.

United Handkerchief Corporation, 35 8th Street, Passaic, New Jersey; Handkerchiefs; 5 percent (T); November 27, 1942.

Single Pants, Shirts, and Allied Garments and Women's Apparel

Akron Manufacturing Company, 1016-20 Moon Street, Akron, Pennsylvania; Ladies' Nightwear; 5 learners (T); November 27, 1942.

Angelica Jacket Company, 1421 Olive Street, St. Louis, Missouri; Service Coats, Dresses, Pants, Accessories; 10 percent (T); November 27, 1942.

Angelica Jacket Company of California, 1223 South Wall Street, Los Angeles, California; Washable Service

Apparel; 5 learners (T); November 27, 1942.

Berkowitz Duck Garment Manufacturing Company, Porter and Swanson Streets, Philadelphia, Pennsylvania; Butcher and Barber Coats, Aprons & Trousers; 3 learners (T); November 27, 1942.

Big Jack Overall Company, Inc., Fourth Street, Bristol, Tennessee; Overalls, Denim Pants, Denim Coats; 10 percent (T); November 27, 1942.

Big Jack Overall Company, Inc., Lee and Sycamore Streets, Bristol, Virginia; Work Pants, Work Shirts; 10 percent (T); November 27, 1942.

The Brunner Company, 632 St. Clair Avenue, N. W., Cleveland, Ohio; Dresses, Housecoats; 10 percent (T); November 27, 1942.

Famous Foundations, Inc., So. West 29th Street, New York, N. Y.; Girdles; 5 learners (T); March 12, 1942.

Fashion Foundations, Inc., 37 West 36th Street, New York, N. Y.; Corsets, Brassieres, Corselettes; 10 percent (T); March 12, 1942.

Milton Hoisch, 308 E. Ninth Street, Los Angeles, California; Ladies' Slack Suits, Ladies' Blouses; 3 learners (T); November 27, 1942.

Ideal Brassiere Company, 839 Broadway, New York, New York; Brassieres; 10 percent (T); March 12, 1942.

Jaffee Brothers, 94-21 Merrick Boulevard, Jamaica, New York; Overalls, Shorts, Slacks and Slack Sets; 10 learners (T); May 27, 1942.

Karp Dress Company, Inc., 335 Barton Street, Pawtucket, Rhode Island; Ladies' Dresses; 8 learners (T); November 27, 1942.

Kunin Manufacturing Company, Inc., 19 West 36th Street, New York, N. Y.; Children's Underwear, Sleeping Wear; 10 percent (T); March 12, 1942.

Lenore Dress Company, 105-107 Dudley Street, Dunmore, Pennsylvania; Dresses; 30 learners (E); May 28, 1942.

R. Lowenbaum Manufacturing Company, 2225 Locust Street, St. Louis, Missouri; Dresses; 10 percent (T); November 27, 1942.

Mel Rose Manufacturing Company, 712 Commerce Street, Dallas, Texas; Slacks, Slack Suits; 5 learners (T); November 27, 1942.

Meyersdale Manufacturing Company, Inc., Grant Street, Meyersdale, Pennsylvania; Shirts; 93 learners (E); April 16, 1942.

Modern Form Foundations, Inc., 650 6th Avenue, New York, N. Y.; Girdles and Brassieres; 10 percent (T); March 12, 1942.

Pleetoox Products Company, 2846 Olive Street, St. Louis, Missouri; Haircloths, Aprons, Duck, Coats, Towels, Uniforms; 2 learners (T); November 27, 1942.

Princess Undergarment Company, 59 Liberty Avenue, Brooklyn, New York; Knitted Bed Jackets (Rayon), Cotton and Satin Gowns; 4 learners (T); March 12, 1942.

S. I. Novelty Company, Inc., 2961 Atlantic Avenue, Brooklyn, New York; Beachwear for Children, Snow Suits, Overalls, Shirts; 10 percent (T); March 12, 1942.

Star Novelty Company, Inc., 477 Broadway, New York, New York; Overalls; 10 learners (T); March 12, 1942.

Sumneytown Clothing Manufacturing Company, Sumneytown, Pennsylvania; Men's Pants; 5 learners (T); November 27, 1942.

United Cotton Goods Company, Inc., Hill Street, Griffin, Georgia; Washable Service Apparel; 5 learners (T); November 27, 1942.

Upstate Garment Company, Inc., 52 South River Street, Coxsackie, New York; Ladies' Dresses; 10 percent (T); November 27, 1942.

Vogue Foundations, Inc., 60-66 Shipman Street, Newark, New Jersey; Girdles, Corsets, Foundation Garments, Brassieres, Bandettes and Accessories; 5 learners (T); November 27, 1942.

Wilmer Fashion, 7th and Bridge Streets, Lehigh, Pennsylvania; Dresses; 10 percent (T); November 27, 1942.

Worcester Underwear Company, 72 Commercial Street, Worcester, Massachusetts; Cotton Pajamas, Cotton Nightgowns; 10 learners (T); November 27, 1942.

Gloves

Sellinger Glove Company, 401 North 8th Street, Sheboygan, Wisconsin; Leather Dress Gloves; 10 percent (T); May 27, 1942.

Tennessee Glove Co., Inc., South Atlantic, Tullahoma, Tennessee; Work Gloves; 10 percent (t); November 27, 1942.

Paul K. Weil Company, 506 N. 4th Street, St. Louis, Missouri; Knit Fabric Gloves; 10 learners (T); November 27, 1942.

Hosiery

Carpenter Hosiery Mills, Wytheville, Virginia; Seamless Hosiery; 5 learners (T); May 27, 1942.

Crescent Knitting Company, 619 Armfield Street, Statesville, North Carolina; Seamless Hosiery; 5 percent (T); November 27, 1942.

Dependable Hosiery Mills, Inc., Liberty, North Carolina; Seamless Hosiery; 5 learners (T); November 27, 1942.

Glenn Hosiery Mill, Logan Street, Burlington, North Carolina; Seamless Hosiery; 5 learners (T); November 27, 1942.

Hattiesburg Hosiery Company, Tuscan Avenue, Hattiesburg, Mississippi; Full Fashioned Hosiery; 10 percent (T); November 27, 1942. (This certificate replaces one issued bearing expiration date of December 12, 1941.)

The House of Byer, Inc., 18 Ames Street, Cambridge, Massachusetts; Seamless Hosiery; 5 learners (T); November 27, 1942.

Infants Socks, Incorporated, Brown and Catherine Streets, Middletown,

Pennsylvania; Seamless Hosiery; 5 percent (T); November 27, 1942.

Pen-Harris Company, Main Street, Terre Hill, Pennsylvania; Seamless Hosiery; 5 learners (T); November 27, 1942. Tip-Top Hosiery Mills, Incorporated, Asheboro, North Carolina; Seamless Hosiery; 5 learners (T); November 27, 1942.

Knitted Wear

Clark Brothers, 20 Elm Street, Glens Falls, New York; Knitted Underwear and Outerwear; 5 learners (T); November 27, 1942.

Textiles

Cherokee Candlewick, Inc., Calhoun, Georgia; Bedspreads; 5 percent (T); November 27, 1942.

Dixie Mercerizing Company, Lupton City, Tennessee; Cotton Yarns; 3 percent (T); November 27, 1942.

Herndon Elastics Incorporated, Main Street, Herndon, Pennsylvania; Rubber Covered Thread; 12 learners (E); March 12, 1942.

Monument Mills, Main Street, Housatonic, Massachusetts; Cotton Yarn, Bedspreads; 3 percent (T); November 27, 1942.

Rocky Mount Cord Company, Gay and Pearl Streets, Rocky Mount, North Carolina; Braided Cord; 3 learners (T); November 27, 1942.

The Warren Featherbone Company, Three Oaks, Michigan; Braids, Tapes, Ribbons and Belting; 3 percent (T); November 27, 1942.

Woolens

Somerset Worsted Mills, East Madison, Maine; Men's Wear, Fancy Worsteds and Auto Fabrics; 2 learners (T); November 27, 1942.

Signed at Washington, D. C., this 26th day of November 1941.

MERLE D. VINCENT,
Authorized Representative
of the Administrator.

[F. R. Doc. 41-8892; Filed, November 26, 1941; 11:58 a. m.]

CIVIL AERONAUTICS BOARD.

[Docket Nos. 638 and 639]

IN THE MATTER OF THE APPLICATIONS OF
NORTHWEST AIRLINES, INC.

NOTICE OF POSTPONEMENT OF HEARING

Please take notice that pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 401 and 1001 of said Act, public hearing in the above-entitled proceeding, being the applications of Northwest Airlines, Inc., for amendment of its existing certificate of public convenience and necessity for route No. 3 so as to permit the scheduling of trips eastbound out of Portland via Seattle as the first intermediate stop, and of trips westbound to Portland, via Seattle, now assigned for December 1, 1941, is hereby postponed to December 15, 1941, 10 a. m. (E. S. T.) in Room 7856

Commerce Building, 14th Street and Constitution Ave. NW., Washington, D. C., before Examiner Thomas L. Wrenn.

Dated Washington, D. C., November 25, 1941.

[SEAL]

THOMAS L. WRENN,
Examiner.

[F. R. Doc. 41-8855; Filed, November 26, 1941;
10:01 a. m.]

FEDERAL POWER COMMISSION.

[Docket No. IT-5701]

IN THE MATTER OF CAROLINA POWER & LIGHT COMPANY

ORDER POSTPONING HEARING

NOVEMBER 25, 1941.

It appearing to the Commission that: On November 15, 1941, the hearing in the above-entitled proceeding was recessed by the Commission's Examiner to reconvene on November 26, 1941;

The Commission finds that: Good cause exists for postponement of the hearing;

The Commission orders that: The hearing in this proceeding heretofore set to reconvene on November 26, 1941, be and it is hereby postponed to November 27, 1941, at 9:45 a. m., in the Federal Court Room of the Federal Building, Raleigh, North Carolina.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 41-8893; Filed, November 26, 1941;
11:58 a. m.]

[Docket No. IT-5737]

IN THE MATTER OF KANSAS CITY POWER & LIGHT COMPANY

ORDER POSTPONING HEARING

NOVEMBER 25, 1941.

It appearing to the Commission that: Good cause exists for the postponement of the hearing in the above-entitled matter;

The Commission orders that: The hearing in this proceeding, heretofore set to commence on December 1, 1941, be and it is hereby postponed to January 3, 1942, at 9:45 a. m., in Jury Room 527, United States Court House, Kansas City, Missouri.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 41-8894; Filed, November 26, 1941;
11:58 a. m.]

No. 230—7

SECURITIES AND EXCHANGE COMMISSION.

[File No. 70-189]

IN THE MATTER OF STONEWALL ELECTRIC COMPANY, SHERIDAN COUNTY ELECTRIC COMPANY

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of November, A. D. 1941.

Notice is hereby given that a supplemental declaration or application (or both) has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by Stonewall Electric Company, a subsidiary of Federal Light & Traction Company, a registered holding company; and

Notice is further given that any interested person may, not later than December 6, 1941, at 1:00 P. M., E. S. T., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declaration or application, as filed or as amended, may become effective or may be granted, as provided in Rule U-23 of the Rules and Regulations promulgated pursuant to said Act or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

All interested persons are referred to said supplemental declaration or application, which is on file in the office of said Commission, for a statement of the transactions therein proposed, which are summarized below:

The Commission, under date of November 19, 1940, issued an order herein permitting the declarations to become effective and granting the applications of Stonewall Electric Company and Sheridan County Electric Company regarding the issue and sale by Stonewall Electric Company to the United States of America acting through the Rural Electrification Administration of promissory notes in the principal amount of \$74,000, the proceeds to be used for the construction of rural electric transmission, distribution and service facilities in the counties of Johnson and Sheridan, Wyoming, and the execution of a lease and option purchase agreement by Stonewall Electric Company to Sheridan County Electric Company in respect of the said electric facilities to be constructed by Stonewall.

The subject supplemental declaration and/or application is filed as an amendment herein and contemplates the issu-

ance by Stonewall Electric Company to the Rural Electrification Administration of an additional note in the amount of \$4,700, the proceeds to be used by the company in completing the construction of said electric facilities.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-8882; Filed, November 26, 1941;
11:53 a. m.]

[File No. 59-17]

IN THE MATTER OF THE UNITED LIGHT AND POWER COMPANY; THE UNITED LIGHT AND RAILWAYS COMPANY; AMERICAN LIGHT & TRACTION COMPANY; CONTINENTAL GAS & ELECTRIC CORPORATION; UNITED AMERICAN COMPANY, AND IOWA-NEBRASKA LIGHT AND POWER COMPANY, RESPONDENTS

[File No. 59-11]

THE UNITED LIGHT AND POWER COMPANY AND ITS SUBSIDIARY COMPANIES, RESPONDENTS

[File No. 54-25]

THE UNITED LIGHT AND POWER COMPANY, APPLICANT

NOTICE OF FILING OF RESPONDENTS' APPLICATION NO. 5 AND ORDER RECONVENING HEARING FOR PURPOSE OF CONSIDERING SAID APPLICATION NO. 5

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of November, A. D. 1941.

The Commission having previously, by order entered in these proceedings on March 20, 1941, ordered among other things the dissolution of The United Light and Power Company; and the Commission having also by order entered in these proceedings on August 5, 1941, ordered among other things the disposition of the properties and assets of LaPorte Gas and Electric Company from its holding company system, and said order having provided that the respondents should make application to the Commission for the entry of such further orders as were necessary or appropriate for that purpose, and the Commission having reserved jurisdiction to enter such further orders as might be necessary or appropriate with respect to other matters in this proceeding;

Notice is hereby given that The United Light and Power Company (hereinafter referred to as Power), The United Light and Railways Company (Railways), Continental Gas & Electric Corporation (Continental), LaPorte Gas and Electric Company (LaPorte), Muscatine, Davenport and Clinton Bus Company (Interurban Bus Company), Iowa-Illinois Gas and Electric Company (Iowa-Illinois), United Power Manufacturing Company

(UPM), Cedar Rapids Gas Company (Cedar Rapids), Fort Dodge Gas and Electric Company (Fort Dodge), Iowa City Light and Power Company (Iowa City), Ottumwa Gas Company (Ottumwa), Moline-Rock Island Manufacturing Company (MRI), Peoples Light Company (Peoples Light), Peoples Power Company (Peoples Power), Tri-City Railway Company of Illinois (Tri-City Railway of Illinois), and Tri-City Railway Company of Iowa (Tri-City Railway of Iowa),¹ have filed on November 24, 1941, an application designated as "Application No. 5" pursuant to Sections 6, 7, 9, 10, 11, 12 (c), (d) and (f) of the Act and Rules U-42, U-43, U-44, U-45, U-46, Instruction 8C, and any other applicable sections of the Act or Rules thereunder, with respect to various proposed transactions herein-after summarized as follows:

In effect the plan provides for the acquisition by a new operating company, to be known as the Iowa-Illinois Gas and Electric Company, of the physical assets of the directly owned operating subsidiaries (except LaPorte) of Power and of UPM, a subsidiary of Railways. This new company will be owned by Railways; it will assume the first lien consolidated mortgage bonds of Power and will become substituted as the mortgagor in place of Power. To finance this acquisition, Railways will acquire all the common stock from Iowa-Illinois. As a result of these transactions, Power will receive sufficient cash to retire, at prices not in excess of the principal amount plus accrued interest, all of its debentures. Upon consummation of all the transactions more particularly herein-after set forth, Power will have as its remaining assets the common stock of Railways and some cash and will have outstanding only its preferred, Class A, and Class B common stocks.

The detailed transactions are more particularly summarized and set forth as follows:

(1) The sale by LaPorte of all its property and assets to non-affiliated interests; the liquidation of LaPorte; the deposit by Power with the Corporate Trustee under the First Lien and Consolidated Mortgage of all cash received on such liquidation; the application of a portion of the cash so deposited to the purchase or redemption of \$1,256,600 principal amount of First Lien and Consolidated Mortgage Bonds, 5½% Series of 1924; and the release of the balance of the cash so deposited against the certification of unfunded additions to the properties of the First Lien Companies.

(2) The release of all outstanding securities of Mason City and Clear Lake Railroad Company from the lien of the First Lien and Consolidated Mortgage.

(3) The transfer by Tri-City Railway of Iowa of its interurban bus line interconnecting Muscatine, Davenport, and Clinton, Iowa; and the acquisition thereof by Interurban Bus Company and the issuance by that Company to Railways of 207 shares of Common Stock for \$20,700.

(4) The transfer by Power to Railways, as a contribution to its paid-in surplus, of all the presently-outstanding Common Stock (\$5,000) of Iowa-Illinois.

(5) The issuance by Iowa-Illinois to Railways of 80,000 shares of its Common Stock for \$13,375,000, of which \$8,000,000 will constitute capital and \$5,375,000 paid-in surplus.

(6) The acquisition by Iowa-Illinois from Railways of all the then-outstanding securities and indebtedness of UPM owned by Railways and the issuance by Iowa-Illinois to Railways of 53,250 additional shares of Common Stock.

(7) The acquisition by Iowa-Illinois from Power of all outstanding securities and indebtedness of the First Lien Companies owned by Power at the time of such acquisition and the payment to Power of \$13,375,000 and the assumption by Iowa-Illinois of \$16,000,000 principal amount of First Lien and Consolidated Mortgage Bonds, consisting of \$10,578,000 principal amount of 6% Bonds (non-callable until 1947) and \$5,422,000 principal amount of 5½% Bonds.

(8) The liquidation of UPM and the First Lien Companies, involving the acquisition of the business, property, and assets and the assumption of the liabilities and contractual obligations of those companies by Iowa-Illinois.

(9) The execution by Iowa-Illinois of an Indenture supplemental to the First Lien and Consolidated Mortgage to evidence assumption of the mortgage by Iowa-Illinois; to specifically subject to the direct lien of the mortgage the physical properties acquired by Iowa-Illinois; to provide for a new series of bonds; to conform the mortgage to the Trust Indenture Act; and to otherwise modify and modernize the mortgage.

(10) The sale by Iowa-Illinois to the public or institutional investors of \$6,000,000 principal amount of a new series of bonds to be issued under the First Lien and Consolidated Mortgage, as amended, to be known as First Mortgage Bonds, 3¼% Series due 1971, and the redemption of the \$5,422,000 of 5½% First Lien and Consolidated Mortgage Bonds to be assumed by Iowa-Illinois.

(11) The transfer by Power to Railways as a contribution to the paid-in surplus of Railways of \$479,000 principal amount of Debentures and \$298,800 par amount of Prior Preferred Stock of Railways, \$607,500 principal amount of Debentures and \$184,800 par amount of Preferred Stock of Continental, all the outstanding Common Stock of The United Light and Power Service Company and certain miscellaneous investments owned by Power.

(12) The purchase by Continental from Railways for \$573,069 of the \$607,500

principal amount of Continental Debentures to be contributed by Power to Railways.

(13) The purchase by Power of all or any part of its outstanding Debentures at prices not in excess of the principal amount thereof plus accrued interest.

(14) The contribution by Power to Railways of cash remaining in the treasury of Power after the discharge of the liabilities of Power.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that the hearings herein be reconvened for the purpose of considering said Application No. 5;

It is ordered, That the hearing in this proceeding shall be reconvened at the office of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C., in such room as may be designated on such date by the Hearing Room Clerk in Room 1102, at 10:00 A. M. on the 16th day of December, 1941. All persons desiring to be heard or otherwise wishing to participate in the proceedings should notify the Commission in the manner provided by our Rules of Practice, Rule XVIII, on or before December 12, 1941. At said reconvened hearing on that day the issues will be limited to a consideration of the matters presented by said Application No. 5 with respect to all of the various transactions previously summarized above.

All interested persons are referred to said Application No. 5 which is on file in the office of said Commission for a full statement of the transactions therein proposed.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearing in such matters. The officer so designated to preside at such hearing is hereby authorized to assert all powers granted to the Commission under section 18 (c) of the Act and to the trial examiner under the Commission's Rules of Practice.

It is further ordered, That without limiting the scope of issues presented by said application, particular attention will be directed at said hearing to the following matters and questions.

(1) Whether the consideration, including all fees, commissions and other remuneration, to whomsoever paid for the acquisition of securities or utility assets is not unreasonable or does not bear a fair relation to the sums invested in or the earning capacity of the utility assets to be acquired or the utility assets underlying the securities to be acquired;

(2) Whether such transfers or acquisitions of securities will unduly complicate the capital structure of the holding company system or will be detrimental to the public interest or the interest of investors or consumers or the proper functioning of such holding company system;

¹ Cedar Rapids, Fort Dodge, Iowa City, Ottumwa, MRI, Peoples Light, Peoples Power, Tri-City Railway of Illinois and Tri-City Railway of Iowa are sometimes collectively referred to herein as the "First Lien Companies". The First Lien Companies are wholly-owned subsidiaries of Power.

(3) Whether the electric properties to be acquired and proposed to be merged into Iowa-Illinois constitute an integrated electric system or systems;

(4) Whether the gas properties to be acquired and proposed to be merged into Iowa-Illinois constitute an integrated gas system or systems;

(5) Whether the transportation properties to be acquired from Tri-City Railway of Illinois and Tri-City Railway of Iowa are reasonably incidental or necessary or appropriate to the operation of Iowa-Illinois, and not detrimental to the utility properties to be operated by Iowa-Illinois; and similarly whether the securities of Interurban Bus Company can be properly acquired by Railways Company;

(6) Whether the accounting entries proposed to be recorded are appropriate and in accordance with sound accounting practice, particularly with respect to the amount to be recorded as representing the property or plant account and depreciation reserve of Iowa-Illinois.

(7) Whether the depreciation practice or policy of Iowa-Illinois is proper and whether the provisions for depreciation are appropriate;

(8) Whether the proposed security structure of Iowa-Illinois meets the standards of the applicable sections of the Act;

(9) Whether the terms and conditions with respect to the redemption of Power's debentures are consistent with and meet the applicable standards of the Act;

(10) Whether the terms of the Supplemental Indenture contain adequate provisions to protect the interests of investors and to meet the requirements of the Trust Indenture Act;

(11) Whether the proposed transactions as outlined in Application No. 5 meet the standards of the section 11 (b) (1) and section 11 (b) (2) proceedings instituted by the Commission;

(12) In the event the Commission finds the proposed transactions appropriate, what terms and conditions, if any, seem necessary and desirable to be imposed upon such transactions;

(13) Whether any particular aspect of the remaining transactions enumerated in Application No. 5 are not in compliance with the applicable provisions of said Act or necessary and consistent with the requirements of the orders of March 20, 1941 and August 5, 1941;

(14) Whether the fees proposed to be paid for any or all services to be performed in connection with any of such transactions are or are not reasonable.

Notice of such hearing is hereby given to such declarants or applicants and to any other person whose participation in such proceeding may be in the public interest and for the protection of investors and consumers.

Notice is further given that Iowa-Illinois Gas and Electric Company, a subsidiary of The United Light and Power

Company, and Interurban Bus Company, have requested that they be made parties to this proceeding to the extent necessary to entitle them to join in this application and to secure authority of the Commission in this proceeding to consummate the aforesaid transactions in which they have an interest.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-8883; Filed, November 26, 1941;
11:53 a. m.]

[File No. 59-34]

IN THE MATTER OF NEW ENGLAND GAS AND
ELECTRIC ASSOCIATION, RESPONDENT

NOTICE OF AND ORDER INSTITUTING
PROCEEDINGS

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 30th day of September, A. D. 1941.

The Commission having examined the corporate structure of New England Gas and Electric Association, a registered holding company, and of the holding company system thereof, the relationships among the companies in said holding company system, the character of the interests thereof and the properties owned or controlled thereby; and the Commission having examined the Report of its Public Utilities Division, dated September 15, 1941, filed herewith and by this reference thereto made a part of this order; and it tentatively appearing to the Commission that:

1. The facts and statements contained in said Report of the Public Utilities Division are true and accurate.

2. The corporate structure of the holding company system of New England Gas and Electric Association is unduly and unnecessarily complicated.

3. More specifically, the corporate structure of New England Gas and Electric Association unduly and unnecessarily complicates the corporate structure of the holding company system of New England Gas and Electric Association.

4. Voting power is unfairly and inequitably distributed among security holders of the holding company system of New England Gas and Electric Association.

5. More specifically, the corporate structure of New England Gas and Electric Association, and the continued existence of that Association in its present form, results in an unfair and inequitable distribution of voting power among the security holders of the holding company system of New England Gas and Electric Association.

6. Section 11 (b) (2) of said Act provides as follows:

(b) It shall be the duty of the Commission, as soon as practicable after January 1, 1938:

(2) To require by order, after notice and opportunity for hearing, that each registered holding company, and each subsidiary company thereof, shall take such steps as the Commission shall find necessary to ensure that the corporate structure or continued existence of any company in the holding-company system does not unduly or unnecessarily complicate the structure, or unfairly or inequitably distribute voting power among security holders, of such holding-company system.

It therefore appearing to the Commission, on the basis of its examination as aforesaid, that proceedings should be instituted under section 11 (b) (2) of said Act with respect to the holding company system of New England Gas and Electric Association, to determine whether the facts are as stated in said Report of the Public Utilities Division, dated September 15, 1941, to determine whether and what action is necessary and whether and what steps are required to be taken by New England Gas and Electric Association to simplify its corporate structure and to cause voting power to be fairly and equitably distributed among the security holders of its holding-company system, and to determine such other matters as are incident to the foregoing or as may be necessary or appropriate under the provisions of section 11 (b) (2) with respect to said holding company system.

Wherefore, it is ordered, That New England Gas and Electric Association is hereby made Respondent in these proceedings, and said Respondent shall file with the Secretary of the Commission on or before the 22nd day of October, 1941, its answer admitting or denying the facts set forth in said Report of the Public Utilities Division dated September 15, 1941, and admitting, denying or otherwise explaining its position with respect to the allegations heretofore made in paragraphs 1 to 6 of this order. Such answer may also include a statement by the Respondent of its views as to what action, if any, should be taken to simplify its corporate structure, to bring about a fair and equitable distribution of voting power among security holders of its holding company system and to take such other action as may be necessary or appropriate under the provisions of section 11 (b) (2) with respect to said holding company system.

It is further ordered, That a hearing be held on the 29th day of October, 1941, at 10:00 o'clock A. M. at the offices of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C., in such room as may be designated on such date by the hearing room clerk in Room 1102 of said building, for the purpose of determining what action, if any, is necessary and should be required to be taken by the Respondent for the purpose of bringing about the simplification of the corporate structure of New England Gas and Electric Association and of its hold-

ing company system and a redistribution of voting power among the security holders thereof, and otherwise to meet the requirements of Section 11 (b) (2) of the Public Utility Holding Company Act of 1935 with respect to the holding company system of New England Gas and Electric Association. At the outset of said hearing consideration will be given to such issues, if any, as may arise from the statements of fact contained in the said Report of the Public Utilities Division dated September 15, 1941, in the allegations in paragraphs 1 to 6 hereof, in Respondent's answer hereinbefore provided for and in any other papers filed herein by interested persons. To the extent that any facts set forth in said Report are not controverted in Respondent's answer, and are not controverted by any other interested person, such facts shall be deemed to be admitted for the purposes of this proceeding.

It is further ordered that James G. Ewell, or any other officer or officers of the Commission designated by it for that purpose, shall preside at the hearings in such matter. The officer so designated to preside at such hearing is hereby authorized to exercise all the powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice; and

It is further ordered, That the Secretary of the Commission shall serve notice of the hearing aforesaid by mailing a copy of this order, together with a copy of said Report of the Public Utilities Division dated September 15, 1941, by registered mail to New England Gas and Electric Association, respondent, not less than 20 days prior to the date hereinbefore fixed within which respondent may file its answer; and that notice of the entry of this order and of said hearing is hereby given to all subsidiaries of New England Gas and Electric Association, to all security holders of New England Gas and Electric Association and of its subsidiaries, to all consumers of said companies, to all States, municipalities and political subdivisions of States within which are located any of the utility assets of the holding company system of New England Gas and Electric Association, or under the laws of which any of the companies in said holding company system are incorporated, to all State commissions, State securities commissions and all agencies, authorities or instrumentalities of one or more States, municipalities or other political subdivisions having jurisdiction over New England Gas and Electric Association of any subsidiaries thereof, or over any of the businesses, affairs or operations of any of them, and to all other persons, such notice to be given by a general release of the Commission distributed to the press and mailed to the mailing list for releases issued under the Public Utility Holding Company Act of 1935, and by publication of this order in the FEDERAL REGISTER not later than 20 days prior to

the date hereinbefore fixed within which respondent may file its answer; and

It is further ordered, That any person proposing to intervene in these proceedings shall file with the Secretary of the Commission, on or before the 22nd day of October, 1941, his application therefor as provided by Rule XVII of the Rules of Practice; and

It is further ordered, That jurisdiction be and is hereby reserved to separate, either for hearing, in whole or in part, or for disposition, in whole or in part, any of the issues or questions which may arise in these proceedings, and to take such other action as may appear necessary to the orderly and economical disposition of the issues involved.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-8884; Filed, November 26, 1941;
11:54 a. m.]

[File No. 59-34]

IN THE MATTER OF NEW ENGLAND GAS AND
ELECTRIC ASSOCIATION, RESPONDENT

NOTICE OF AND ORDER FOR POSTPONEMENT
AND EXTENSION OF DATE FOR INTERVEN-
TION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 25th day of November, A. D. 1941.

The Commission on September 30, 1941 having issued its order instituting proceedings under section 11 (b) (2) of the Public Utility Holding Company Act of 1935 against New England Gas and Electric Association, respondents, and such order having directed that the said respondents file an answer on or before the 22d day of October 1941, to the allegations made in the said order of September 30, 1941, and that publication of said order be had in the FEDERAL REGISTER not later than 20 days prior to the date fixed for respondent to file its answer, and that a hearing be held on such matter on the 29th day of October 1941 at 10:00 o'clock A. M. at the offices of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C.; and the Commission by its order of October 22, 1941 having postponed said hearing to November 24, 1941; and

New England Gas and Electric Association, having filed its answer as required by said order of September 30, 1941, and having notified its security holders by letter, dated October 9, 1941, of the institution of proceedings under section 11 (b) (2) of said Act; and

The said order of September 30, 1941 having been served by registered mail upon New England Gas and Electric Association and notice of such order having been given by a general release of the Commission, distributed to the press and mailed to the mailing list for releases issued under the Public Utility Holding Company Act of 1935, but not having been

published in the FEDERAL REGISTER within the time required by the order of September 30, 1941; and

It appearing to the Commission that because of such failure to publish the said order, it is appropriate that further time be given to persons proposing to intervene, that the date of said hearing be postponed, and that publication of said order of September 30, 1941 and of this order be had in the FEDERAL REGISTER not later than 20 days prior to the date of the postponed hearing.

Wherefore, it is ordered, That the date of scheduled hearing on such matters be and is hereby postponed to December 17, 1941 at the same time and place and before the same Trial Examiner heretofore designated and that the time within which any person may intervene in these proceedings be and is hereby extended to December 15, 1941.

It is further ordered, That the Secretary of the Commission shall serve notice of the postponed hearing aforesaid by mailing a copy of this order by registered mail to New England Gas and Electric Association, respondent, not less than 20 days prior to the date of the postponed hearing; and that notice of the entry of the said order of September 30, 1941 and of this order and of said postponed hearing is hereby given to all subsidiaries of New England Gas and Electric Association, to all security holders of New England Gas and Electric Association and of its subsidiaries, to all consumers of such companies, to all States, municipalities and political subdivisions of States within which are located any of the utility assets of the holding company system of New England Gas and Electric Association, or under the laws of which any of the companies in said holding company system are incorporated, to all State Commissions, State securities commissions and all agencies, authorities or instrumentalities of one or more States, municipalities or other political subdivisions having jurisdiction over New England Gas and Electric Association or any subsidiaries thereof, or over any of the businesses, affairs or operations of any of them, and to all other persons, such notice to be given by publication of the said order of September 30, 1941 and of this order in the FEDERAL REGISTER not later than 20 days prior to the date hereinbefore fixed for the postponed hearing.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-8885; Filed, November 26, 1941;
11:54 a. m.]

[File No. 70-433]

IN THE MATTER OF PUBLIC SERVICE COM-
PANY OF INDIANA, INC.

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its

office in the City of Washington, D. C., on the 25th day of November, A. D. 1941.

A declaration or application (or both) pursuant to the Public Utility Holding Company Act of 1935 having been duly filed with this Commission by the above-named party, and notice having been given of the filing thereof by publication in the FEDERAL REGISTER and otherwise, as provided by Rule U-23 under said Act, and said declaration or application being concerned with the following:

Public Service Company of Indiana, Inc., a subsidiary of Hugh M. Morris, Trustee of the Estate of Midland United Company, a registered holding company, proposes (1) to invite publicly proposals for the purchase or underwriting pursuant to Rule U-50 of \$42,000,000 Principal Amount of its First Mortgage Bonds, Series D, 3%, due December 1, 1971, and (2) either (a) to sell \$10,000,000 aggregate Principal Amount of its Serial Debentures due December 1, 1942—December 1, 1950, and bearing not more than 3% interest, or (b) to borrow \$10,000,000 and to issue to the lender or lenders thereof its notes in said amount maturing serially from December 1, 1942 to December 1, 1950, with interest at not more than 3%.

Public Service Company of Indiana, Inc., states that the proceeds of the sale of the above securities will be used (1) to call for redemption the now outstanding \$38,000,000 aggregate Principal Amount of its First Mortgage Bonds, Series A, 4%, due September 1, 1959, (2) to pay and retire \$8,800,000 Principal Amount of the Serial Debentures, 3%, due March 1, 1942—September 1, 1949, (3) to pay and retire \$400,000 aggregate Principal Amount of Northern Indiana Power Company's Serial Notes, 3%, assumed by Public Service Company of Indiana, Inc., (4) to pay \$396,923.05 aggregate Principal Amount of Central Indiana, Inc., (4) to pay \$396,923.05 aggregate Notes, 2.73%, which were issued to United States of America as evidence of loans and which have been assumed by Public Service Company of Indiana, Inc., and (5) to aid the Company in carrying out a proposed major construction program.

Public Service Company of Indiana, Inc., requests that this Commission, in view of the heavy capital expenditures with which the Company is faced in order to carry out the proposed major construction program, abrogate and set aside a condition imposed by the Commission in connection with the issuance and sale by Public Service Company of Indiana, a predecessor company of Public Service Company of Indiana, Inc., of its Series B Bonds (File No. 70-258), which, in effect, provides that in addition to the sinking fund provisions of its outstanding long-term debt it, or its successors, should retire by 1958 \$3,859,500 additional amount of its long-term debt; and

It appearing to the Commission that it is appropriate in the public interest and the interests of investors and consumers that a hearing be held with respect to said declaration or application and that said declaration shall not become effective or said application be granted except pursuant to the further order of the Commission:

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on December 3, 1941 at 10:00 in the forenoon of that day at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing cause shall be shown why said declaration shall become effective;

It is further ordered, That James G. Ewell or any other officer or officers of the Commission designated by the Commission for that purpose shall preside at the hearing in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (e) of said Act, and to a trial examiner under the Commission's Rules of Practice;

Notice of such hearings is hereby given to declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 1, 1941;

It is further ordered, That, without limiting the scope of issues presented by said declaration or application, particular attention will be directed at said hearing to the following matters and questions:

1. Whether the proposed issue and sale of the aforesaid securities is solely for the purpose of financing the business of Public Service Company of Indiana, Inc. and has been approved by the Public Service Commission of Indiana.

2. What terms and conditions, if any, should be imposed by the Commission in the public interest and for the interests of investors and consumers.

3. Whether the request of Public Service Company of Indiana, Inc. that the Commission abrogate and set aside the aforementioned condition relating to long-term debt retirement should be granted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-8886; Filed, November 26, 1941;
11:55 a. m.]

[File No. 70-408]

IN THE MATTER OF PHILADELPHIA ELECTRIC COMPANY

SUPPLEMENTAL ORDER

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 25th day of November, A. D. 1941.

Philadelphia Electric Company, a subsidiary of The United Gas Improvement Company, a registered holding company, having filed an application and amendments thereto pursuant to the Public Utility Holding Company Act of 1935, particularly sections 6 (b) thereof and Rule U-50 thereunder, regarding the issue and sale of \$20,000,000 principal amount of First and Refunding Mortgage Bonds, 2¾% Series due 1971, the proceeds to be applied toward the retirement of a like principal amount of 1½% promissory notes payable to banks and maturing December 3, 1941, Philadelphia Electric Company to publicly invite proposals for the purchase of the bonds in accordance with Rule U-50; and

The Commission having on November 5, 1941, granted such application pursuant to section 6 (b) subject to the condition, among others, that applicant report to the Commission the result of the competitive bidding as required by Rule U-50 (c) and comply with such supplemental order as the Commission may enter in view of the facts disclosed thereby, jurisdiction having been reserved for this purpose; and

Philadelphia Electric Company having made such report to the Commission in the form of a further amendment to the application herein, setting forth the action taken to comply with Rule U-50 (b) and specifying the proposals which have been received for the purchase of said bonds pursuant to the invitation for competitive bids and setting forth that Philadelphia Electric Company has accepted a bid from a group of nine underwriters headed by Mellon Securities Corporation of 103.4544% plus accrued interest from December 1, 1941, to the date of delivery, for said bonds, which are to be resold to the public at 104.176%, representing a spread to the underwriters of 0.7216%; and

The Commission having examined the record and finding no basis for imposing any terms and conditions with respect to the issue and sale of said bonds at such price and with such spread;

It is ordered, That said application, as amended, be and it is hereby granted in regard to the price to the issuer, spread, and distribution thereof applicable to such bonds, subject, however, to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-8887; Filed, November 26, 1941;
11:55 a. m.]

[File No. 70-355]

IN THE MATTER OF NORTHERN INDIANA PUBLIC SERVICE COMPANY; GARY ELECTRIC AND GAS COMPANY; GARY HEAT, LIGHT & WATER COMPANY; CLARENCE A. SOUTHERLAND AND JAY SAMUEL HARTT, TRUSTEES OF THE ESTATE OF MIDLAND UTILITIES COMPANY.

ORDER GRANTING APPLICATIONS AND PERMITTING DECLARATIONS TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 25th day of November, A. D. 1941.

Northern Indiana Public Service Company ("Northern") having filed: (1) An application pursuant to the third sentence of section 6 (b) of the Public Utility Holding Company Act of 1935 for the exemption from the provisions of section 6 (a) of the Act for the issue and sale of \$5,000,000 principal amount of its 2.75% 10-year serial notes and either 278,025 or 370,700 shares of its no par common stock for the purpose of acquiring from Gary Electric and Gas Company ("Gary Electric") the common stock of Gary Heat, Light & Water Company ("Gary Heat"); (2) applications pursuant to sections 9 (a) and 10 of the Act for approval of the acquisition from Gary Electric of all the outstanding no par common voting stock of Gary Heat, and also for the acquisition, in the proposed dissolution of Gary Heat, of the water properties of Gary Heat, as a liquidating dividend; and (3) a declaration pursuant to sections 6 (a) (2) and 7 of the Act with respect to reducing the capital represented by the common no par stock of Northern in such amount as may be necessary to absorb any property adjustment account resulting from the acquisition of the properties of Gary Heat.

Gary Heat having filed: (1) A declaration pursuant to sections 12 (c) and 12 (f) of the Act and Rules U-43 and U-46, with respect to the transfer to Northern, as a liquidating dividend, by Gary Heat of its electric, gas, and water utility properties, and other assets; and

Gary Electric having filed: (1) An application pursuant to sections 9 (a) and 10 of the Act for the approval of its acquisition of the Northern common stock referred to above as part payment for the stock of Gary Heat; (2) a declaration pursuant to sections 12 (d) and 12 (f) of the Act with respect to the sale by Gary Electric to Northern of the outstanding common no par voting stock of Gary; (3) a declaration pursuant to section 12 (c) of the Act and Rule U-42 adopted thereunder with respect to the acquisition by Gary Electric of its outstanding no par common voting stock as a step in liquidation; (4) a declaration pursuant to sections 12 (c), 12 (d), and

12 (f) of the Act and Rules U-43, U-44, and U-46 adopted thereunder with respect to the distribution in liquidation of the common stock of Northern received in part payment for the stock of Gary Heat to the stockholders of Gary Electric, including Clarence A. Southerland and Jay Samuel Hartt, Trustees of the Estate of Midland Utilities Company ("Utilities"); and (5) a declaration pursuant to sections 6 (a) (2) and 7 of the Act with respect to reducing its capital from \$5,000,000 to \$2,000,000; and

Utilities having filed: (1) An application pursuant to sections 9 (a) and 10 of the Act for approval of the acquisition of no par voting stock of Northern, as a liquidating dividend, upon the liquidation of Gary Electric; (2) a declaration pursuant to section 12 (d) of the Act and Rule U-43 with respect to the (indirect) sale to Northern by Gary Electric of the no par voting stock of Gary Heat; (3) a declaration pursuant to sections 12 (d) and 12 (f) of the Act and Rules U-43 and U-44 with respect to the sale (indirect) of utility securities and utility assets by Northern, Gary Electric, and/or Gary Heat;

A public hearing having been held after appropriate notice, the Commission having considered the record in this matter, and having made and filed its findings and opinion herein;

It is ordered, That with the exception of the declarations and application mentioned in our conditions numbered 1 and 2 below, the said applications, as amended, be and the same hereby are granted, and the said declarations, as amended, be and the same hereby are permitted to become effective forthwith, subject, however, to the terms and conditions prescribed in Rule U-24, and to the following further conditions:

1. That the Commission reserve jurisdiction as to Gary Electric's declaration: (1) Pursuant to 12 (c) of the Act and Rule U-42 adopted thereunder with respect to the acquisition of its common stock as a step in the liquidation; (2) pursuant to sections 12 (c), 12 (d), and 12 (f) of the Act and Rules U-43, U-44, and U-46 with respect to the distribution in liquidation of the common stock of Northern, received in part payment of the Gary Heat common stock, to Gary Electric's stockholders, including Utilities; and (3) pursuant to sections 6 (a) (2) and (7) of the Act with respect to reducing its capital from \$5,000,000 to \$2,000,000.

2. That the Commission reserve jurisdiction as to Utilities' application pursuant to sections 9 (a) and 10 of the Act with respect to the acquisition by Utilities of common stock of Northern as a liquidating dividend on the dissolution of Gary Electric.

3. That Gary Electric will within 60 days of the date of this order notify Northern as to how it will exercise its option to obtain the balance, \$756,000, of the purchase price of the Gary Heat common stock either in cash, or in Northern common stock at \$8.1575 per share, or partly in cash and partly in Northern common stock.

4. That Northern will record the utility plant of Gary Heat on its books at the estimated original cost of \$8,783,174 (as adjusted to the date of acquisition), and that Northern will record the reserve for depreciation on its books for the Gary Heat utilities plant at the same figure as it is stated on the books of Gary Heat at the date of acquisition.

5. That the stated value of Northern's common stock shall be reduced by not more than \$2,268,000; that there shall be charged against the capital surplus so created an equivalent amount of the property acquisition adjustment resulting from the transactions proposed; and that the balance of such property acquisition adjustment shall be charged against earned surplus forthwith.

6. That the surplus of Northern, as of the date of the order and as adjusted as provided in the preceding paragraph numbered 5, shall be restricted against any payment of dividends on Northern's common stock.

7. That in lieu of the condition (e) contained in our order of December 13, 1939, in Northern Indiana Public Service Company (File No. 32-167, Holding Company Act Release No. 1836), the following condition is imposed: That except as the Commission may by order or orders from time to time otherwise provide, Northern Indiana Public Service Company (and any successor or successors thereto) shall charge against income as a provision for depreciation, for the calendar year 1940, at least \$1,700,000; for the calendar year 1941, at least \$1,700,000; plus an additional two and one-half percent (2½%) of the book value of net additions to depreciable property made during the year 1940; and for each calendar year beginning with the year 1942 and continuing so long as any of the First Mortgage Bonds, Series A, 3¾% due August 1, 1969, are outstanding, at least \$1,900,000 per annum and an additional two and one-half percent (2½%) of the book value of net additions to depreciable property made after January 1, 1940, and up to the close of the preceding calendar year, including the addition to plant represented by the acquisition of the Gary Heat property.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,
Secretary.

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